

# **Right to Information and Tourism**

# Contents

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## Preface

Right to Information Act provides legal right and opportunity to all people, irrespective of their political, social, economic, professional, educational or cultural background, to get all information that is legally in the public realm - information that is linked to our lives and our rights as citizens of this country. The law gives us all a powerful weapon that we can use to create more transparency and accountability in governance. It has given ordinary people the space to intervene in political and administrative decision-making with a view to influence its direction and goals.

Wide horizon of information is accessible to all of us through this right. You can ask for inspection of the plan of constructing/ repairing roads in your locality, a project proposal by the local/state or central government that results in embargo on access to local resources like water front in case of coast, (due to say construction of an amusement park in your neighborhood), or access to local stream for collecting water due to opening of a ski-resort in your hill village / area, or you are being forced to convert your agricultural lands to revenue lands because the area has been brought under the expanded city / town limit. All citizens have the right to know about the developmental projects that are happening/ are being planned. It is no longer the prerogative of the bureaucracy to withhold this information.

This booklet is an attempt to understand the how Right to Information has been used / can be used to access information on issues that have direct and indirect relevance to expansion of unregulated and unsustainable tourism in the country. Tourism has huge impact on local communities and their access to resources. In Goa, water supply to local communities has reduced because of demand from tourism industry. Supplying water and other facilities to tourists is more important than supply to local communities. . Construction of hotels on coast has impact on fisherfolk and small traders. Moreover, permission of construction of hotels on the coast have had it's major effect on the environment.

Tourism, in its current form, is being developed and promoted in violation of the basic tenets of democratic decision-making. It is argued that tourism generates

foreign exchange and creates direct and indirect employment opportunities in services associated with it. However, close scrutiny reveals that tourism brings with it a host of problems involuntary displacement of people, extensive exploitation of natural resources, encroachment of community properties and exploitation of labour. Tourism industry uses resources which fall under jurisdiction of local self governing institutions, like fresh water, land, local infrastructure. Hence informed consent of the people, prior to making any use of local resources should be mandatory. However, experiences from the field indicate that tourism development has been a completely top down process, in which, the rights of the local communities are neglected and completely denied.. It is vital that any tourism development should create social and political space for articulating dissent and designing practices based on the Right to Information and Transparency.

With the RTI you can now question your government, at the panchayat, state and the central level, about why certain plans are being made, implemented and how and from where money is being invested in the tourism projects in your area or district. RTI has been a force to demand transformation in governance in the country. We all need continue to put the pressure and use it to acquire information that in actual sense belongs to us.

## Chapter-1

# The Right to Information

### Do these questions come to your mind.....?

- *Why are agricultural lands been taken away for establishing industries?*
- *Why are people asked to leave their homelands and livelihoods to make way for highways?*
- *Why is the local sea front in your town or village gradually getting blocked with the construction of hotels and resorts? Who is giving them permission to construct so close to the sea?*
- *Why does the local administration refuse to give information about these activities?*
- *Why do they refuse to show the master plan / district plan when you ask for it?*
- *Why members of Grama Sabha are refused access to detailed project plans of prospective plans and activities that are likely to acquire huge tracks of land and affect the ecology and environment of the place?*
- *Why locals do not get to see the Financial Utilization Report of the local panchayat ?*
- *Why you have to pay toll while traveling in a National Highway but the sarkari babu's car is exempted from it?*
- *Why are local people prevented from entering the forests by the forest guards but the tourist vehicles are allowed to roam around the forests 24hrs?*
- *Why police shoo away the locals who sell food and trinkets on the beaches but allow the outsiders to have parties in the same place?*
- *How is the government allowing roads to be constructed through the forest?*

- *Why are there no doctor at the primary health center/hospital and no health worker at the sub-health center/dispensary while the country is asking foreigners to come to the country for health care?*
- *The government has acquired your land saying that it is needed for Public Purpose? What public purpose is it for?*
- *Why inspite of local grama panchayat sending repeated appeals for fund for construction of a school building by no funds are dispersed but spends money for construction of a tourist information centre in the same grama panchayat?*

These questions and many more keep coming in our mind but all these years whenever we have approached the Government or the local authorities they have refused to give us any answers. They said we had no right to question. This information is highly confidential.

This made us think:

- Is it true that in our country the government is "by the people and for the people"?
- If it is really 'by the people and for the people' then how we- "the people" not allowed to know why and under what conditions Government takes any particular decision?
- Most of these matters relate to our lives and livelihood, then how can it be confidential?
- Are those in the government (that is the ministers and the Govt. functionaries i.e. the bureaucrats and other govt. officials) above the general citizens of this country? Does our Constitution give them any special status? Then what stops them from being answerable to us?
- Do these ministers and the bureaucrats spend their own money to construct roads for us, or distribute medicines from the local health centers, appoint and pay teachers in the govt. schools from their personal money?

*We all **pay taxes**. When we buy even small items like a soap or a matchbox, we pays taxes in the form of sales tax, excise duty etc. **The money that Government uses for any activity is what we pay.***

The Government is ours and people to run it are elected and appointed for us and by us. They are also paid from our money- the tax that all of us pay. Moreover, Constitution does not give them any special status except that such decisions which are likely to affect the security of the country and its people are confidential. Hence, the question arises:

- How do we hold the government accountable?

We cannot ask for explanations from the government unless we have the basic information regarding government decisions and functioning. The Right to Information Act gives us the right to question our government and get information about matters that affect us in thousands of ways. Used innovatively, this right can be used to hold our government accountable, question their planning, decision making and also implementation of various activities that they are liable to undertake for the people of this country.

- Do we have any legal entitlement under which government, at all levels, and it's functionaries are bound to answer every one of us?

The answer is YES. **The Right to Information Act (RTI Act) that was passed by Parliament in May 2005 empowers us to do just that.** It has given us the legal right and the power to obtain all information related to the functioning of the government. Right to Information is the right of every citizen to seek information from the Government, so that person can know about where public money is being spent. This RTI Act being a Central Act extends to the whole of India except the State of Jammu and Kashmir. All bodies, which are constituted under the Constitution or under any law or under any Government notification or all bodies, including NGOs/private bodies, which are owned, controlled or substantially financed by the Government are covered. It is indeed a significant legislation to strengthen democracy - allowing the common man to seek - and receive within 30 days - information on most aspects of Government functioning.

### **How does the RTI Act help us?**

RTI Act gives us the right to ask the Government for information that can expose inaction and corruption, and address our grievances. The Right to Information is derived from our fundamental right of expression under Article 19 of the Constitution of India. If we do not have information on how our

Government and Public Institutions function, we cannot express any informed opinion on it. This has been clearly stated by various Supreme Court judgments, since 1977.

Democracy revolves around the basic idea of citizens being at the centre of governance and rule by the people. This can become a reality only when Citizens are informed. Therefore, Citizens Right to Know is of paramount interest<sup>1</sup>. Also, since the Government is run on behalf of the people, they are the rightful owners who have a right to be informed directly.

Mazdoor Kisan Shakti Sangathan (MKSS)<sup>2</sup> in the rural areas of Rajasthan first brought the Right to Information on the national agenda. Thereafter, nine States had enacted the RTI across India. In May, 2005, the two houses of Parliament passed the RTI Act as Act 22 of 2005. This became operational from 12 October, 2005. Right to Information existed since the day the Constitution of India was framed. The present RTI Act only gives procedures to operationalise this right.

### The Importance of Right to Information<sup>3</sup>

1. At the price of Rs.10, (free for below poverty line card holder), it provides the facility for Citizens to get information on the Government's decisions,

<sup>1</sup>Adapted from Shailesh Gandhi's Booklet on Right to Information- "RTI: The weapon of the Common Man".

<sup>2</sup> (MKSS) is a People's Organisation that works with workers and peasants in the villages of Central Rajasthan. It was set up by the people of the area in 1990 to strengthen participatory democratic processes so that they could live their lives with dignity and justice. Born with a struggle for community land, the subsequent struggle for minimum wages gave the people the insight that for accessing any right, the poor have to demand transparency and accountability of systems of governance. It was realised that the fundamental tool for ensuring transparency and accountability of the government and for that matter, all bodies that affect public interest, is access to relevant information.

MKSS spearheaded the right to information movement in Rajasthan - and subsequently, throughout India. They used the right to information as tool to draw attention to the underpayment of daily wage earners and farmers on government projects, and more generally, to expose corruption in government expenditure. For further information: Contact MKSS at Village Devdungri Post Barar, District Rajsamand-313341, Rajasthan, Tel: 91-2909-243254. Tele Fax: 91-2909-250180. Mobile: 09414007305. E-Mail: arunaroy@jpl.dot.net.in, mkssrajasthan@yahoo.com.

<sup>3</sup>The chapter is adapted from Shailesh Gandhi's Booklet on Right to Information- "RTI: The weapon of the Common Man", pg 2 and "Right to Information Act of 2005", a Primer by National Council for People's Right to Information, 2005.

actions, rules, expenditure, reasons for taking decisions, copies of Government orders, agreements, and audit reports and so on. Virtually most activities of the Government can be monitored by the people.

2. Any Citizen can use RTI Act, without going to any Government office, and with a very low cost.
3. Citizens have felt helpless as individuals to question or correct wrongs as individuals. This RTI Act restores the rights of the Citizen to know and empowers him to use that power to monitor.
4. This right granted by RTI Act converts our purely electoral democracy into a true participatory democracy, by which we can get and monitor better governance, and also be early participants in framing policy.
5. Anyone can use the law to get information. One does not have to prove one's direct or indirect interest or give explanation on what use that information will be put in for applying or getting the information.

*The government spends so much money on various developmental works in your area. You should ask for the details of all the works carried out by the panchayat/municipal council in your area. How much money was spent? On what was it spent? Similar information was asked by people in different parts of Maharashtra, Rajasthan and Delhi. When the information was physically verified, it turned out that a number of works existed only on paper. Won't you like to hold government accountable in your area?*

### What is information?<sup>4</sup>

Section 2 (f) of RTI Act defines it thus:

- (f) "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

<sup>4</sup>Ibid

Right to Information includes the right to

- (i) Demand from the government information pertaining to any of its departments.
- (ii) Undertake inspection of work, documents, records;
- (iii) Demand photocopies of government contracts, payment, estimates, measurements of engineering works etc.
- (iv) Demand from the government samples of material used in the construction of roads, flyover, bridges, drains, buildings etc.
- (v) Demand to inspect any public development work that may be still under construction or completed.
- (vi) Demand to inspect government documents- construction drawings, records books and registers etc.
- (vii) Demand status of your requests or complaints.
- (viii) Taking notes, extracts, or certified copies of documents or records.
- (x) taking certified samples of material;
- (x) Obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;

Information can be demanded from all Public authorities, i.e. all Govt. bodies and organisations substantially financed by Government including NGOs.

The RTI Act is a codification of this important right of Citizens. The right existed since the time India became a republic, but was difficult to enforce without going to Court. The RTI Act stipulates the following:

- A time period within which information must be provided, namely 30 days.
- Method of giving the information.
- Some exemptions of information, - Section 8 (1)<sup>5</sup>, - which will not be given.

<sup>5</sup>Certain information on which government have been provided Exemptions from disclosure of information.

However Section 8(2)<sup>6</sup> specifies that if there is great Public interest in disclosure, all information must be given, even if it is exempted.

- All administrative offices of public authorities have to appoint 'Public Information Officers (PIO) who will be responsible to ensure that the information applied for are granted to the applicant within the stipulated time period without any harassment.'
- Citizens apply for information to the Public Information Officer of the concerned office.
- If information is not provided or wrongly refused, the Citizen can go in appeal to an Appellate Authority who would be an official in the same department, senior to the PIO. The Appellate authority has to give a decision in 30 days.
- The RTI Act also gives you the right to know the file notings with the reasons listed out by the different officials.
- If this too does not give a satisfactory result, one can appeal to the State or Central Information Commissioner, which is an independent Constitutional Authority, established under the RTI Act.
- The RTI Act provides for a penalty for delay on the PIO at a rate of Rs. 250 per day of delay, or for malafide denial of information, or giving false information. In case of information being delayed, no charges for information are to be paid.

Thus RTI Act provides for a time bound and defined process for Citizens to access information about all actions taken by Public authorities. The penal provisions on the PIO are the real teeth of the Act, which ensure that the PIO cannot treat Citizen's demands for information in a cavalier manner.

Each State has the right to frame its rules in terms of fees, procedures and forms, which have to be in consonance with the RTI Act. The rules can only

<sup>6</sup>Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.



specify the application fee, and a set format for applications or appeals. They can also specify the extra charges for providing the information. The rules cannot go beyond the RTI Act and have to be in consonance with it.

### Salient features of Right to Information Act 2005<sup>7</sup>

- You can seek information from any department of the central or state government, from panchayati raj institutions and from other organizations and institutions (including NGOs) that are established, constituted, owned, controlled or substantially financed, directly or indirectly, by the state or central government (**Section 2(a) & (h)**).
- In each department, one or more officers have been designated as public information officers (PIOs). They accept the request forms and provide information sought by the people (**Section 5(1)**).
- In addition, in each sub-district level there are assistant public information officers (APIOs) who receive requests for information and appeals against decisions of the public information officers, and then send them to the appropriate authorities (**Section 5(2)**).

All offices are supposed to display a board giving the name of the PIO. At times, this information can be obtained from the web. If the application goes to the wrong PIO, the PIO is responsible to forward it to the correct PIO within five days.

- Any person seeking information should file an application with the public information officer (PIO) assistant public information officers (APIO) (**Section 6(1)**). Legally there is no prescribed format, it can be filed hand written even in piece of white sheet. However, if the department has developed any format then it is advisable to use that particular format to avoid unnecessary delay in processing of the application.

<sup>7</sup>The chapter is adapted from "Right to Information Act of 2005", a Primer by National Council for People's Right to Information, 2005. The National Campaign for People's Right to Information (NCPRI), launched in 1996, seeks to empower the people and to deepen democracy, through promoting people's right to information. Through the use of this right, it seeks to fight corruption and social apathy, to make governments, and other institutions and agencies having an impact on public welfare, more humane and accountable to the people, and to promote efficiency and frugality. The NCPRI is committed to support participatory, just, secular and humane democracy. You can contact them at [ncpri@gmail.com](mailto:ncpri@gmail.com). Also refer [www.righttoinformation.info](http://www.righttoinformation.info)

- Where the person applying for the information cannot make it in writing because of being uneducated or any other infirmity, the PIO shall render all reasonable assistance to the person making the request orally to reduce the same in writing (**Section 6(1)**).
- Where the applicant is sensorily challenged, the public authority shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection (**Section 7(4)**).
- The applicant is not required to either give any reasons for requesting the information or any personal details, except for those required to contact the applicant (**Section 6(2)**).
- A reasonable application fee, as prescribed, will be charged for each application and for supply of information. However, no fee is chargeable from persons below the poverty line (**Section 7(5)**), or if the information is provided after the prescribed period (**Section 7(6)**).
- Information sought from the PIO has ordinarily to be provided or refused within 30 days. That sought from an APIO in 35 days (**5(2)**).
- Information regarding the life or liberty of an individual has to be provided within 48 hours (**7(1)**).
- In case a person fails to get a response from the PIO within the prescribed period or is aggrieved by the response received, he/she may file an appeal within 30 days with an officer superior in rank to the PIO (**Section 19(1)**). If the Public information officer (PIO) refuses to take your application or fails to give satisfactory application, you have the right to appeal the higher authority, know as the appellate authority. Under the RTI Act the PIOs are liable to be fined if they fail to furnish information within a stipulated time period or do not furnish adequate information.
- In case the appeal is allowed, the information shall be supplied. If it is not, then the applicant has the right to appeal within 30 days to the Central or State Information Commission, for information regarding the central or state government institutions respectively (**Section 19(3)**).



- If a PIO fails to furnish the information asked for under the RTI Act or fails to communicate the rejection order, within the time specified, the PIO shall be liable to pay a penalty of Rs 250 per day for each day of delay, subject to a maximum of Rs 25,000 (**Section 20(1)**).
- The Central/State Information Commission (CIC and SIC respectively) can also require the public authority which has illegitimately delayed/denied information to compensate the complainant for any loss or other detriment suffered (**Section 19(8)(b)**).
- In case a PIO:
  - i. without any reasonable cause and persistently, fails to receive an application for information or does not furnish information within the time specified,
  - ii. or malafidely denies a request for information,
  - iii. or knowingly gives incorrect, incomplete or misleading information,
  - iv. or destroys information which is the subject of a request,
  - v. or obstructs, in any manner, the furnishing of information,

The respective information commission shall recommend disciplinary action against the concerned public information officer, under the service rules applicable to the person (**Section 20(2)**). Though initially for many months there were no clarity of the constitutional role of the Central Information Commission (CIC) and their counterparts in the states namely the State Information Commissions (SIC), in the recent past in many states they have started playing pro-active role in taking forward citizens right to information<sup>8</sup>:

<sup>8</sup> Mr. P.K.Verma, the Punjab State Information Commissioner, on 1st February 2007 had imposed a fine of Rs. 50,000 for not providing adequate information applied for under the RTI Act. The amount of penalty imposed is one of the highest in the country from those that have been reported so far. The amount was 50 thousand because there were two separate applications written to the same PIO regarding two separate issues and he had not replied to any of those. Refer

[http://www.infocommpunjab.com/htm/documents/Orders\\_01-02-07.doc](http://www.infocommpunjab.com/htm/documents/Orders_01-02-07.doc) It is the second order in that document (Maljit Singh Vs PIO Housefed). Can also refer <http://in.news.yahoo.com/070215/43/6c5o9.html>

In a recent case the Karnataka State Information Commission said that "Commission is aware that in some cases information seekers were pressurised and coerced to withdraw

However, last year there was huge criticism about the functioning of CIC and its counter parts in the respective states (the SICs)<sup>9</sup>. A group of NGOs, including Parivartan and Delhi Right to Information Manch, raised their concern that for various problems ranging from large pendency of cases to dissatisfied applicants who accused information commissioners of dismissing their applications summarily. Some of the issues that the group took up were the lack of transparency in proceedings besides the pending cases. NGO representatives had also complained that the scope of Section 8 of the RTI Act or the information that is exempted from being made public had been widened while the Act itself was restricted to a small number of issues. Activists had raised the concern that many applications had been dismissed on the basis that the information asked for was of a "fiduciary nature" or hurt the personal or

their requests. Commission has taken a policy decision that requests for information, once made, should not be allowed to be diluted or withdrawn." It is an important decision and strengthens our right to access and seek information under RTI Act. It is likely to stop the coercive practice of building pressure through various forms of treats on individuals and organisations to withdraw applications for information by parties about whom information or against whom information is sought.

Recently the Gujarat State Information Commission (GSIC) has imposed a penalty of Rs 20,000 on Vadodara Municipal Corporation's (VMC) public information officer. The penalty was imposed on under section 20 of the RTI Act for not providing information to an applicant within the stipulated time. The PIO failed to provide applicant information on the grounds that the latter was a 'blacklisted architect'. Persistent public outcries and sustained campaign have had its effect on the CIC and SICs. Inspite of the fact that CIC and SIC are infested with retired bureaucrats, there has been constant vigil on the part of the Civil Society to make these bodies understand their public duty and thus be accountable.

In the recent past, several NGOs had come down heavily on the Karnataka government on the ground that the Right to Information Act was being violated in the State. The representatives of NGOs alleged that officials were hand-in-glove with politicians in corruption, "owing to which they hide facts even if asked for them under the Act". B H Veeresh of the Bhraashachara Nirmulana Vedike, said that officials 'hush' up statistics on public money being used by them for travelling to distant places in the name of gathering information. Whenever details are sought under the RTI, they are refused. Another activist Guru Ravindra Nath reported that he received incomplete information, that too after four months of applying under the RTI. He alleged that Bruhat Bangalore Mahanagar Palike were allowing the construction of commercial complexes in residential areas but refused information when they were sought. Mr. Veeresh said that the government must take stern action against officials 'hiding' information or dilly-dallying on giving out details asked-for. Hefty penalties on the erring officials are vital to making RTI work.

<sup>9</sup>Refer to RTI activists to now act as watchdog over info panel, Himanshi Dhawan, 17 Feb, 2007 2317hrs,

[http://timesofindia.indiatimes.com/NEWS/India/RTI\\_activists\\_to\\_now\\_act\\_as\\_watchdog\\_over\\_info\\_panel/articleshow/1633822.cms](http://timesofindia.indiatimes.com/NEWS/India/RTI_activists_to_now_act_as_watchdog_over_info_panel/articleshow/1633822.cms)

institutional interests of the organisation<sup>10</sup>. It is important that we constantly maintain a vigil and pressure on all authorities to make sure that the very purpose of the RTI Act does not get diluted.

**Think of how to frame a question asking for information, which will serve the objective you are trying to attain.**

- If you wish to know of the policy for reserving or de-reserving of land, ask for a copy of the rules governing it. If you wish to know why a sports ground is being converted into a commercial complex, ask for the copies of the correspondence on this.
- MKSS got copies of civil works in rural Rajasthan and proved that they were fictitious.
- Mr Shailesh Gandhi in Mumbai has obtained information about the loot of public money in crores by the government giving Public lands to the elite (read corporations and developers) for a pittance.
- Shivaji Raut in Satara obtained Employment Guarantee scheme ( EGS) muster rolls, which on verification exposed fraud. A campaign has been launched to empower Citizens to stop this looting of public money that is meant for helping the poor households in rural areas to support their living.
- Shankar in Vishakhapatnam acquired information of the existing structures and those planned to be built on the coast. Based on that information he filed a Writ petition at the High Court of Andhra Pradesh raising the concern of violation of Coastal Regulation Zone Notification, 1991.

Make the Right to Information application clearly stating the information you are seeking<sup>11</sup>. Right to Information application along with the fee is accepted by a lot of post offices for Central Government bodies. However, there are also certain information which has been classified as confidential and thus can be denied<sup>12</sup>.

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<sup>10</sup> Ibid.

<sup>11</sup> Refer to Annexure II for a copy of the format of RTI application.

<sup>12</sup> Refer to Annexure III

## CHAPTER 2

# Empowerment of People through Right to Information in the Tourism Context

Tourism, in its current form, is being developed and promoted in violation of the basic tenets of democratic decision-making. A worrisome dimension of tourism has been the extent of adverse impacts that unchecked tourism has brought to communities and the environment in the country. Tourism depends heavily on natural and human resources and its inroads into protected areas and untouched zones have often been at high cost. Government policies seldom acknowledge the negative fallouts of tourism development. Proponents of tourism have developed the industry without recognising the grave concerns that it has given rise to, making it a purely profit-oriented rather than people-oriented system, privileging industry and tourists' needs over local people's interests often leads to privatisation of common property resources for exclusive use by industry and displacement of local communities to make room for tourism establishments. Low levels of participation in the formal, more lucrative tourism industry and reduced access to resources have resulted in paltry benefits to local communities. **In essence, tourism development today has raised serious questions as to who its real beneficiaries are. Tourism development needs to create social and political space for articulating dissent and designing practices based on the Right to Information and Transparency.**

With the RTI Act you can now question your government, at the panchayat, state and the central level, about why certain plans are being made, implemented and how and from where money is getting invested in the tourism projects in your area or district.

With a development model that is clearly not in favour of the majority of its people but oriented to suit the needs of the country's social and economic elite, communities and affected people need to come together in their fight to reclaim

democracy and the right to determine the form and pace of development. RTI should be used as a major tool in reviving true democracy in this country.

### Interesting Case Studies and information on Right to Information<sup>13</sup>

**These case studies and information gives glimpses of how RTI Act has/can be used with respect to tourism related activities and why Right to Information is such an important tool in the hands of all of us:**

Since the RTI Act has come into operation, the Right to Information campaign has been taken forward by different groups and individuals in different ways and means. The ultimate objective has always been that it is used to emphasise our rights as 'people' in the democracy and our rights to be aware and participate in the decision making process. Right to Information has been used by people from every economic level, social standing and profession. Everyone has felt the inescapable need for information that gives us all an unique opportunity of nation building and good governance in the true spirit of democracy.

Initiatives have been undertaken at every level. Not only individuals but also government at many levels has taken up programmes and initiatives to push ahead Right to Information in the country.

#### Initiatives by Civil Society Organisations:

The government of Andhra Pradesh (AP) is acquiring vast tracks of land across the state for construction of Special Economic Zones (SEZs) and tourism



infrastructures. Visakhapatnam and it's surrounding regions have been extensively targeted by the Government to promote such activities. This has had direct effect on the lives and livelihood of the fisher folk and coastal communities in these areas. Most of these communities are subject to forced displacement from their homes and customary livelihood practices. In the coastal stretch of Vishakhapatnam and Bheemunipatnam the government of AP has signed a Memorandum of Understanding (MOU) with the chairman of Vizag Beach Resorts Ltd., a private limited company, to develop and establish resorts, discotheques, star hotels, multiplex complexes, nature care parks etc. to the tune of Rs.2000 crores. Apart from these under the category of Special Economic Zone, the government of AP has already started construction of satellite ports, refineries in and around Visakhapatnam. If the above plan is implemented it is estimated that around 45000 fisher folk families will be displaced and become vulnerable.

**EQUATIONS with partner organisations in Andhra Pradesh has filed Right to Information applications with the Vishakhapatnam Urban Development Authority, Tourism Department, Revenue Department, and State Tourism Department. We sought information on the following:**

1. What are the tourism projects, which are in the pipeline in Vishakhapatnam district?

<sup>13</sup> At the onset it is important to mention that most of the information has been collated from Humjanenge Yahoo group mails, KRIA Katte Yahoo group mails and from Anti-bribery campaign yahoo group mails. Some of the case studies have also been taken from the experiences documented by various civil society organisations across the country whose endeavor is to make our government and its processes transparent, bring in the issue of accountability of the government to it's people is to make our government and its processes transparent, bring in the issue of accountability of the government to it's people and establish true democracy in the country. Some of the groups working on RTI& against corruption are:

<http://groups.google.com/group/aidelhirticell?hl=en>

<http://groups.google.com/group/Right-to-Information-Act-2005?hl=en>

<http://groups.google.com/group/youthtaskforcedelhi?hl=en>

<http://www.parivartan.com/>

2. Give us details of amount spend on tourism projects at Vishakapatnam district.
3. What are the Public Private Partnership Guidelines for the Tourism Projects in AP?
4. Was the PPP Guidelines for the Tourism Projects in AP tabled and passed in the Legislative Assembly in AP?
5. If yes, provide reference of the Gazette Notings.
6. If no, under what basis are the PPP Projects on Tourism getting passed/ approved in AP?
7. Give details of the constructions, which have taken place in the stretch between Bheemili - Visakhapatnam.
8. Are there unauthorized constructions in the Bheemili-Visakhapatnam stretch?
9. If Yes, what actions have been taken against them?
10. Give details of amount spent on construction of roads and other works undertaken between Bheemunipatnam- Visakhapatnam.
11. Permission of inspection of files related to the MOU signed between Department of Tourism, AP and Vizag Beach Resorts Pvt. Limited.
12. Copy of the MoU signed between Department of Tourism, AP and Vizag Beach Resorts Pvt. Limited.

The response to these Right to Information applications from all these departments has not been satisfactory. However, we got first level information from these departments about the projects and the investments.

The Tourism Department has refused to part with information about question 8,9 and 10. An appeal was filed with the appellant authority but they wrote back to us saying that they were not the relevant Authority and the application should be filed with the Department of Tourism. This point out gross violation of the laid out provision of the RTI Act that if the Right to Information application goes to the wrong PIO, the PIO with whom the applicant has filed the Right to Information application is responsible to forward it to the correct PIO within five days

For the remaining questions, the departments provided very basic information.

In this regard it is important to mention that in a recent judgment passed by the AP High Court in a Writ Petition filed by one of our network Partners, Mr. Shankar of Fisherman Youth Welfare Association of Vishakhapatnam seeking demolition of all the constructions violating the CRZ norms, Our Vishakhapatnam district network partner organisations FYWA (Fishermen Youth Welfare Association) and DFYWA (District Fishermen Youth Welfare Association) won the case against the violation of Coastal Regulation Zone Notification 1991 (CRZ) at Rishikonda Beach in Vishakhapatnam. (Both organisations are partner organisations in KERATAM network with whom EQUATIONS work very closely and had organised RTI caravan in all Coastal District in AP.

Mr. Sankar of FYWA and Mr. Arjul Dasu of DFYWA filed writ petitions against the CRZ violations in Vishakhapatnam district in the High Court of AP.

On 6th July 2007, the High Court of Andhra Pradesh gave court orders on the above writ petitions and ordered VUDA (Vishakhapatnam Urban Development Authority) and Vishakhapatnam district Collector to demolish all the constructions made in the entire coastal area in violation of CRZ notification.<sup>14</sup>

The High Court also asked these authorities to sent a report based on the action taken on demolition of the structures and removal of construction materials with photographs in two and half months time.

Also Court asked the Principal Secretary, Department of Environment, Forests and Science and Technology to consider the feasibility of organizing workshop at least once in a year of the officers posted in the coastal districts to make them

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<sup>14</sup> In the High Court of judicature of Andhra Pradesh, Hyderabad, W.P.No. 1937 of 2007, Between:

1. Fisherman Youth Welfare Association, (Registered No.775/03) Peda Jalaripeta, Waltair Bus Depot, Lawsons Bay Colony, Visakhapatnam - 17 Rep by it's President T.Shankar and others Petitioners And
1. Govt. of Andhra Pradesh  
rep. by its Principal Secretary  
Municipal Administration  
Secretariat, Hyderabad and others

aware of the law relating to environment and ecology in the coastal areas and take measures for protecting the same.<sup>15</sup>



The High Court of AP directed Vishakhapatnam Urban Development Authority (VUDA) to demolish the constructions.

- In a similar endeavor, KERATAM<sup>16</sup> Network in Vishakhapatnam District and KADALI<sup>17</sup> Network in East Godavari District, with the help of their partner organisations unearthed the information that the government of AP has signed MOU with the chairman of Vizag Beach Resorts Ltd. to develop and establish resorts, discothèques, star hotels, multiplex complexes, nature care parks, amusement parks etc. of Rs.2000 crores in the name of tourism and development in the coast line of Vizag. Apart from these under the category of Special Economic Zone, the government of Andhra Pradesh has already started construction of satellite ports, refinery industries etc. and were planning to establish textile industry, chemical

<sup>15</sup> The hyperlink for court order [http://hc.ap.nic.in/orders/wp\\_8177\\_2007.html](http://hc.ap.nic.in/orders/wp_8177_2007.html)

<sup>16</sup> KERATAM is a network of 7 NGOS working across the coastal belt of Vishakhapatnam District with the fisher folk. The campaign against CRZ Violations by tourism and hospitality projects on Vishakhapatnam – Bheemunipatnam road by KERATAM has stalled displacement of 7 villages.

<sup>17</sup> KADALI network of 7 NGOS work in the East Godavari District of AP.

industry in Visakhapatnam. It was realized that if the above plans are implemented around 45000 fisher folk families will be displaced and become vulnerable. It has resulted in cancellation of the MoU.

**To make the local communities aware of such clandestine plans of the government and to build-up resistances from the grassroots KERATAM, Action Aid (AP) and EQUATIONS organized a caravan on Right to Information Act 2005 in September 06 across the coastline of Visakhapatnam.** It covered almost an area of 750 kms in the Vishakhapatnam District. The main objective of the campaign was to sensitize the fisher folk and coastal communities and the society at large and bring focus on the importance of accessing information. During the Caravan the organisers helped the fishing community to file Right to Information Applications. It was recognised and emphasised that without information, people cannot adequately exercise their rights and responsibilities as citizens or make informed choices and that information on governance is a national resource.

Similar initiative was undertaken by KADALI Network in East Godavari District partnering with Action Aid (AP) and EQUATIONS.

As part of the campaign, they had invited Commissioners of RTI, District Administration and concerned government officials to participate and create awareness on importance of accessing information under the RTI ACT.

In another case of CRZ violation one of our partner organisations in AP, namely T. Sankar of Fishermen's Youth Welfare Association (FYWA), a member of the





KERATAM Network, has been successful in stopping several constructions at Tenneti Park, at Rishi Konda and have obtained order of demolition from the High Court of AP at Ramakrishna Beach in Vizag. As evidence to the ongoing violations of CRZ they had furnished information that they had gathered through Right to Information applications to the various departments.<sup>18</sup> The High Court of AP restrained the company who has been given the tender to undertake construction from continuing the construction activity at the site in question.

Vice-Chairman and Secretary of Visakhapatnam Urban Development Authority and Commissioner, Greater Visakhapatnam Municipal Corporation were directed to ensure that henceforth no construction activity is undertaken by the Company at the disputed site. The Order stated that any violation of the order will necessarily make the concerned authorities liable to be proceeded under the Contempt of Courts Act, 1971.

<sup>18</sup> IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD, W.P.M.P. No.2452 of 2007

Fisherman Youth Welfare Association (Registered No. 775/03), Peda Jalaripeta, Waltair Bus Depot, Lawsons Bay Colony, Visakhapatnam 17, rep. by its President T.Shankar, S/o. Paidiaiah.

Ankita Welfare Association, Regd. No. 523/04, A non profit Voluntary Organization, 51-8-40/34, K.R.M.Colony, Seethammadhara, Visakhapatnam, rep. by its Secretary, S.K.Alisha, S/o. S.K.Lal Saheb.

Vs

Petitioners in W.P.No. 1937/2007 on the file of the High Court) AND

Govt. of Andhra Pradesh, rep. by its Principal Secretary, Municipal Administration, Secretariat, Hyderabad.

Director General of Fire Services, State of Andhra Pradesh, B.R.K.R. Bhavan, Hyderabad.

Govt. of Andhra Pradesh, rep. by its Principal Secretary, Environment Forests Science & Technology, Secretariat, Hyderabad.

Andhra Pradesh Pollution Control Board, rep. by its Member Secretary, Paryavaran Bhavan, Sanathnagar, Hyderabad.

Visakhapatnam Urban Development Authority, rep. by its Vice-Chairman, Siripuram, Visakhapatnam.

Greater Visakhapatnam Municipal Corporation, rep. by its Commissioner, Visakhapatnam.

Andhra Pradesh State Coastal Zone Management Authority, rep. by its Chairman and Principal Secretary, Environment Forests Science and Technology Department, Secretariat, Hyderabad.

Union of India, rep. by its Secretary, Ministry of Environment and Forests, Paryavaran Bhavan, New Delhi.

MIC Electronics Ltd., A4, Electronic Complex, Kusaiguda, Hyderabad, rep. by its Managing Director.

In order to ensure that the construction activity is halted forthwith, the High Court of AP directed the Principal District Judge, Visakhapatnam to depute an officer of the rank of Senior Civil Judge to visit the site on 7th February, 2007 and send a report to the Court by fax whether or not the construction activity has been stopped.

***The issue of violation of CRZ is a crucial concern for all who are concerned about the fragile ecology of the coast and the dependent livelihood options of thousands of coastal people. The implementation of the critical CRZ notification has been lopsided and largely ignored by most state governments. Vested interests from various lobbies such as the tourism and industrial lobbies have constantly sought to get rid of this notification. The tourism industry has been in the forefront in lobbying for dilution of the CRZ Notification since the notification was passed in 1996. The CRZ Notification has been amended 20 times, and each dilution rendered the law more impotent. The 26 December 2004 tsunami starkly demonstrated the impact of this gross neglect and innocent people paid dearly for this. In the present context with the threat of CRZ being replaced by CMZ by the MoEF looming large, it becomes more important that RTI is used to expose the shoddy deals that MoEF is planning to undertake at the instance of the industrial lobbies who look at the coast as lucrative resource mines.***<sup>19</sup>

In Gujarat, the Dariya Kinara Samvad Yatra, (a collective by voluntary organizations and individuals of Gujarat) organized an exposure visit along 1663 Km long coast of Gujarat to understand the livelihood issues of communities. During the visit, over 40000 people from 400 villages were directly contacted, interviewed and dialogues. In village Lati a remote village in

<sup>19</sup> One of the proposals of the proposed CMZ notification is that all CMZ II areas (which are defined to mean areas with present and future economic potential such as mining, tourism etc) could be protected by coastal protection structures. Once these areas are thus protected, all activities can be undertaken behind these structures and no coastal regulatory norms or procedures would apply to these activities. These 'Protection structures' remain undefined in the proposed Act.

Technically speaking most of our coastal areas have economic potential. Thus it will not be surprising if tomorrow the entire coast will be left open for activities that range from Mining to intensive tourism developments.

Gujarat, residents of Dalit Phalias, 'Dalit Vas', as it is locally known, complaint for not having road, proper drinking water facilities in their lane. They even complained of having demanding for it in the Gramsabhas many times.

The pamphlets about Right to Information, and its application were circulated widely in each of the villages during this exposure visit.

The people of these villages showed their willingness to file an application for their issues. They were guided to draft an application asking about, how and where the Panchayat's funds were utilized. When the exposure visit was about to complete, residents from Phalia called up and informed that, soon the applications were filed, and the road works had started in their Phalia village.<sup>20</sup>

***Critiques might say that these are small endeavours. In fact when such initiatives are undertaken in different parts of the country by different groups and individuals the pressure on the government and administration becomes immense. The demand of transparency and insistence to right to know about why certain decisions are taken, how the allocated funds are spent and so on have rattled our bureaucrats, who are bestowed with the vast power to implement the decision taken by the government.***

So when we get to know that since 1997-98, Kerala Tourism Department has created District Tourism Promotion Council (DTPC)<sup>21</sup> in every district, local people have the right to know

1. About details of the duties/ functions delegated to these bodies each financial year
2. Details of fund allocated
3. Detailed report of the activities undertaken by DTPC in each district
4. Detailed fund utilization statements.

<sup>20</sup> Exposure visit along 1663 Km long coast of Gujarat to understand the livelihood issues of communities, taken from KRIAKatte yahoo group mail.

<sup>21</sup> The District Collector is the Chairman of the DTPC, an officer from the Department of Tourism is the Member Secretary and included representatives from the Panchayats in the district. Since the DTPCs are government bodies, funded from government exchequer they fall within the ambit of RTI Act.

After the panchayat elections in Kerala the DTPCs were reconstituted. People have a right to know and participate in the planning process also.

Similarly, **Department of Tourism, Government of Kerala is investing on construction and maintenance of roads across the state. Apart from state**



**highways, they are delegating funds to the panchayats, especially those which have tourism potential like the Kumarokam Panchayat, district Kottayam.**

Panchayats in Kerala according to the Kerala Panchayat Raj Act are entrusted with the duty of construction of road and financial allocations are made accordingly from the state budget.

In this case, people have a right to ask information under RTI Act on the following issues:

1. Did the Department of Tourism (DOT) delegate any fund to the Panchayat?
2. How much fund was delegated?
3. How and where the fund was utilized?
4. Did Panchayat also receive fund for construction of road under other schemes?
5. How much and from where?



6. Has that been utilized?
7. Detailed utilization statement of such funds.

**The tourism brochure of Uttarakhand refers to eco-tourism camps in Bugyals. Bugyal's are grasslands in upper Himalayas, which have unique and ecologically fragile eco-system.** These grasslands are common prop-



erty resource of the Panchayats and have been used by the locals and the nomadic tribes like Gujjars as grazing lands for their herds.

Department of Tourism Uttarakhand are promoting tourism in the bugyals themselves and are also allowing large number of private tour operators to have eco-tourism in the bugyals.

Local people have the right to know and get information about the following:

1. Do these businesses have permission of the local Panchayats?
2. How much land required by the eco-tourism development? What type of land taken for such developments (forest/ agricultural/ common/ panchayat/ wasteland)?
3. What is the compensation given (if land has been taken)? Has there been consensus of community and panchayat?
4. The conditions attached to such permission, if any.
5. Did the state government take permission of the Ministry of Environment and Forests, Government of India ?

6. Was any Environmental Impact Assessment conducted (EIA)? Did public hearing process happen? When, where and who participated?
7. A copy of the EIA certificate.

**EIA certificates are not confidential.** In a Right to Information application filed by an environmental activist, Kanchi Kohli from Kalpavriksh, the Chief Information Commission has given the decision that EIA certificates are public documents.

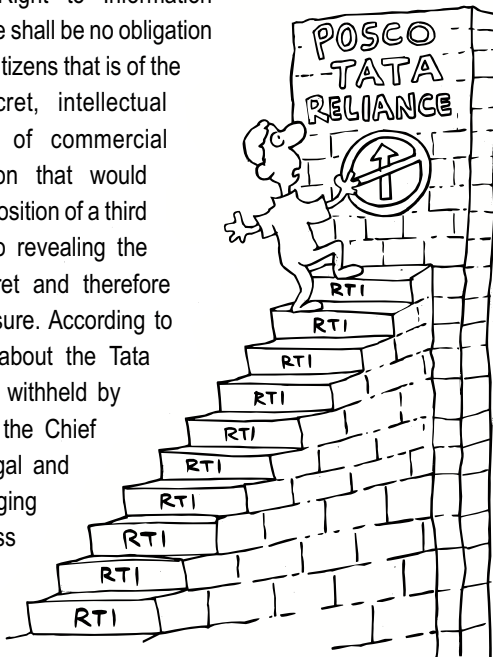
**Right to Information can be used to protect the ecology of any fragile area, be it the coast or the mountain- the pristine environment of any area that might be targeted by the government for tourism development. A spate of land acquisitions ranging from construction of new roads acquiring agricultural lands, establishing a shooting range for the armed forces on tribal lands, acquiring land inside a protected area for opening a hotel, developing elite tourist enclaves on agricultural and pastoral lands and on coasts and now in developments latest avatar SEZs are hungry for vast tracts of land.**



**There have however, also been cases of huge disappointments in getting information by Civil Society organisations on related issue through Right to Information applications.** In West Bengal, the leader of the Opposition was denied details of information on land acquisition through Right to Information. The leader of the opposition in the state assembly, had filled an application under Right to Information seeking details about the state governments' contract with the Tata Group of Industries, the Salim Group of Industries and Reliance. The person had also asked for details about the use of land for industries in the state in the last 10 years.

Public information officers refused to answer all Tata-specific queries though they were slightly more generous with their answers relevant to the Salim Group. The leader of opposition was informed by the State Public Information Officer (SPIO) that no MoU between the state of West Bengal and Reliance has been signed. The reply also said that, it is not possible to “furnish at one go” a detailed report about the use of land for industries in the past 10 years in the state.

The leader of the opposition have alleged that Section 8(1)(d) of the RTI Act was misquoted to withhold information related to Singur. According to Section 8 (1) (d) notwithstanding the Right to Information under the RTI Act, there shall be no obligation to give information to citizens that is of the nature of trade secret, intellectual property rights and of commercial confidence. Information that would harm the competitive position of a third party. It would lead to revealing the company's trade secret and therefore exempted from disclosure. According to him, the information about the Tata Project at Singur was withheld by the SPIO, even after the Chief Minister of West Bengal and the Tata Motors Managing Director had given press statements and had made public announcements about the small car project on the agricultural lands at Singur.<sup>22</sup>



<sup>22</sup>Refer: “RTI?Govt’ clueless”, Statesman News Service, <http://www.thestatesman.net/page.news.php?clid=23&theme=&usrss=1&id=144232>

On similar lines in wake of the large scale anti people development ushered in by the Special Economic Zones (SEZ), a researcher cum activist from National Centre for Advocacy Studies (NCAS), Pune, had filed an application under RTI Act with the Union Ministry of Commerce (MoC) for getting copies of the project proposals of key SEZ projects such as that of POSCO in Orissa, Tata at Gopalpur, Reliance Energy in Uttar Pradesh and IDCO projects at Kalinganagar, Orissa.

The MoC had replied back saying that the information sought cannot be provided as it would harm the commercial confidence and trade secrets of the third party, protection that has been provided in Sections 8 (1) (d) and 9 of the RTI Act, (Refer to Annexure iv).

On appeal she received a response from MoC asking the "Chief Public Information Officer (CPIO) in the MoC to release the copies of the SEZ proposals if they do not violate the confidentiality clause". Further, the response also said that she could file for a further appeal with the Chief Information Commissioner (CIC) within 90 days of the order". The order however did not mention the time frame within which the CPIO had to send the response to it.<sup>23</sup>

***In wake of the large scale anti people development ushered in by the SEZ this denial of information further re-enforces the argument that these policies of the government are completely investment driven, anti-people and are against the basic tenets of the Constitution of India.***

**However, recently Goa became the first state in India to openly declare that no more SEZs would be set up in the territory.** It was a result of relentless pressure from almost the entire state-villagers, educated middle class, professionals, activists, the church and the media.<sup>24</sup> **Interestingly the fight against SEZs started when one of the key initiators of the movement**

<sup>23</sup>For more information contact Madhumanti

Research Associate, National Centre for Advocacy Studies (NCAS), Serenity Complex, Ramnagar Colony, Pashan, Pune-21 Maharashtra ( [www.ncasindia.org](http://www.ncasindia.org) )

Tel/Fax: 020-22952003/4,

<sup>24</sup>Refer “Goa: How the battle was won”, By Rifat Mumtaz and Madhumita Sardar, <http://www.infochangeindia.org/features475.jsp>

**tried to unearth the details of a seemingly fraudulent 20 point programme in his village of granting free housing for poor.** He filed an Right to Information application to examine the project details and with those minutes of the related meetings. The information given also revealed the secret plans of the SEZ projects. According to the applicant "We did not have any inkling then even about the concept of SEZs but living just 2km away from the proposed site we had to know anyway."

They started reading the SEZ Act and Rules and simultaneously filed hundreds of Right to Information applications in early 2007, painstakingly gathering documents on the various SEZ projects. Monteiro, who had filed the most Right to Information applications, has spent over Rs 18,000 only on applications and appeals. The documents received from the respective departments revealed startling legal violations and irregularities within the SEZ projects. The group expanded it's Right to Information applications from Verna Industrial Area cover the rest of the state and in the process unearthing violations in the entire state. Armed with the knowledge of the dangers of SEZs and the unearthed frauds, the group started an awareness building campaign initially in their village and subsequently throughout Goa. More the people got to know about the SEZ provisions and frauds, the number of supporters swelled.<sup>25</sup>

***The above case study brings back confidence that major battles can be won provided we use our right to information and acquire information from government. The government on it's part should ensure that the access to information remains wide and easily accessible.***

**In a case in 2006, overruling the Indian Olympic Association's (IOA) plea that it was not governed by the RTI Act, the Central Information Commission (CIC) directed the sports body to provide information on the expenses incurred at the Melbourne Commonwealth Games' closing ceremony in April 2006, when it became public that they had spent more on roping in celebrities like Aishwarya Rai than on sportspersons.**

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<sup>25</sup> Ibid.

Appellant Veeresh Malik<sup>26</sup> had approached the IOA in April 2006 with Right to Information application seeking details from the public information officers (PIO) and the appellate authorities in the IOA. He had asked for audited accounts between 2004-2006 and particulars of expenses incurred by IOA for the Melbourne Games.

The nodal ministry, Ministry of Sports and Youth Affairs, revealed that the Central and state government had given IOA Rs 320 lakh of IOA's total budget of Rs 396 lakh. The Central Auditor General (CAG) had also audited its accounts.

The IOC however ignored the application and refused to respond.

Not receiving any response from IOA, the applicant approached the Chief information Commissioner (CIC). During the hearing, the IOA refused to divulge any information saying that since it was not established by an Act of Parliament or any government notification, it could not be described as a public authority and hence did not fall within the purview of RTI Act.

The CIC noted that since IOA was "substantially funded" by the government and since it "discharges public functions... that it is the nodal agency though which alone citizens could participate in international sports, it should have no hesitation in keeping its functions transparent".

The CIC held that "being a public authority in terms of RTI Act, does not... in any way compromise its position or functioning in relation to the Olympic Charter".

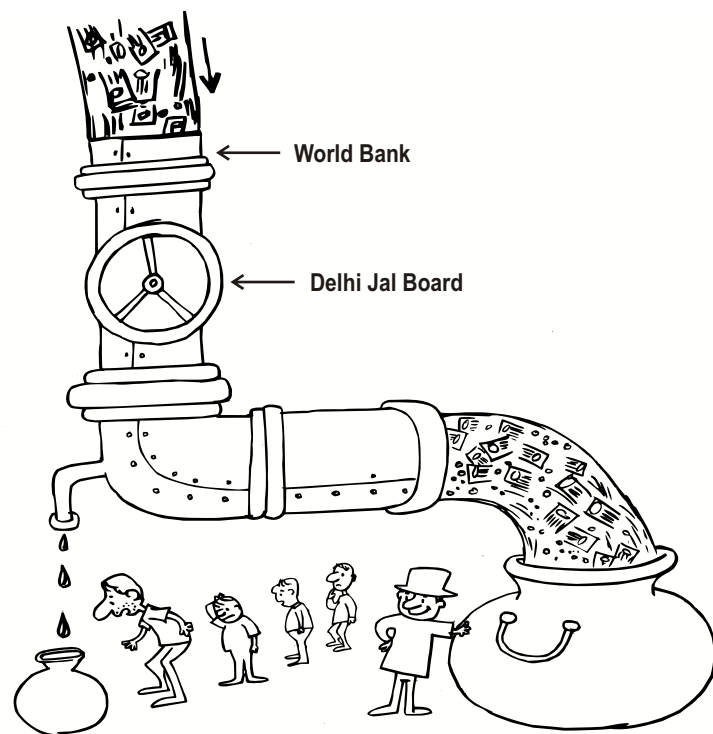
The CIC asked IOA to provide the required information and designate information officers. The sports ministry was asked to overlook the compliance of the order.<sup>27</sup>

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<sup>26</sup> A long time Right to Information campaigner and activist.

<sup>27</sup> Indian Olympic Association directed by the Central Information Commission to give information, Himanshi Dhawan, 28 Nov, 2006 2333hrs ISTTIMES NEWS NETWORK, Refer [http://timesofindia.indiatimes.com/NEWS/India/Explain\\_games\\_expense\\_CIC/articleshow/629451.cms](http://timesofindia.indiatimes.com/NEWS/India/Explain_games_expense_CIC/articleshow/629451.cms)

**More details on moves to privatise Delhi's water supply and sanitation, involving the Delhi Jal Board (DJB) and the World Bank have been unearthed with the help of the RTI Act. Thereafter, several voluntary**



organisations, residents' welfare organisations, experts and Delhi citizens have come together to form the Right to Water Campaign (RWC) to oppose the project.

Based on details of the project, revealed in an expose by the Delhi-based Parivartan, it was calculated that if the project was passed the average Delhi family's water bill could increase five-fold. Parivartan used the RTI Act to obtain official documents of the Delhi Water Supply and Sewerage Project that records deals between the state utility, the Delhi Jal Board and the World Bank. These were later publicised.

The project's stated aim is to facilitate round-the-clock water supply to the city of Delhi. But documents obtained under the RTI Act, which seeks to improve governance by ensuring transparency, show that the project will not help remove existing inequities in water supply. Also, it offers plenty of scope for a few private water companies to earn major profits.

Arvind Kejriwal, Parivartan's founder, says: "On the one hand there is room for exorbitant earnings for some companies and their experts, which will push up costs, and on the other hand there is growing insistence on recovering costs. The net result will be to steeply push up the water bills of ordinary people and deny water to the poorest people who can't afford the heavy bills."

According to Parivartan, each water company has been given a say in deciding its own annual operating budget and there are provisions for upward revision which could be misused to place extravagant demands on the government. "There is no upper limit on operational expenses."

Each zone will be divided into district metering areas (DMAs) the performance evaluation of each company will be based on delivery to the DMAs rather than individual households. There is also the possibility of water being diverted from the DMA to high-tariff consumers like hotels, neglecting households.

In a statement the RWC has said that if the project is implemented "water would become virtually inaccessible to the poor". Madhu Bhaduri, convenor of the RWC, says: "There has been a remarkable mobilisation of people in Delhi to prevent the implementation of this project which can lead to the denial of the most basic need to many poor people. Eminent experts and senior people in government have shared our concerns about this project."

The World Bank is considering a loan of US\$ 50 million for the project, spread over a period of six years, at commercial rates of interest. At one time it was reported that the loan was about to be approved, but, due to the recent controversy, a final decision has been postponed.

Meanwhile, the RWC has demanded that the Delhi government immediately withdraw its loan application to the World Bank. Effective representations have been made before the Planning Commission and the Delhi government. The government is seeking the opinion of the Planning Commission for consulting some expert bodies

In a meeting organised by Parivartan and RWC on the project in Delhi, Aruna Roy, one of the principal leaders of the Right to Information campaign, said: "This entire episode shows the great utility of the Right to Information in preventing flawed projects and policies before any damage is done. This is possible when RTI Act empower citizens to access detailed and reliable authentic information."<sup>28</sup>

**Armed with confidential report and petitions from MPs, Congress MP Naveen Jindal was campaigning for the Railways to purchase rails from his Jindal Steel and Power Limited (JSPL) Raigarh, Chhattisgarh.** Using the RTI Act to access a confidential committee report by an ex-judge into how defective rail tracks caused a major train accident wherein 200 lives were lost - thereby the MPs firm was banned from rail tenders due to technical defects in degassing (removal of hydrogen) in his steel plant (Jindal Steel is quite known within the steel industry for buying up obsolete plants worldwide and reassembling them in India). Ministry turned down Congress MP Jindal's demand for setting up metallurgists Committee to push through the project.<sup>29</sup>

It was a major set back to Congress MP Naveen Jindal's steel company as railway ministry refused to set up metallurgists committee to re-examine JSPL's bid for rail according to PIB press release. JSPL, which set up a unit for manufacturing long rails three years ago, alleges that the accident is being used as an excuse by the Railways to block competition from the private sector. Naveen Jindal says his Rs 1,500-crore long rail plant in Chhattisgarh is running to only 40% of its capacity.

**Kanchi Kohli of Kalpavriksh<sup>30</sup> had reported that they had filed Right to Information application on the request of Ramesh Agrawal, on the question as to whether Ministry of Environment and Forest (MoEF) has any guidelines in the case a public hearing gets postponed on the**

<sup>28</sup> Delhi's murky water deals exposed, thanks to right to info law,  
Source: www.ipsnews.net, November 6, 2005

<sup>29</sup> Ministry of Railways: Control Of Hydrogen In Rail Steel, 7th December, 06, PIB Press Release.

<sup>30</sup> Kalpavriksh is a NGO working on issues related to conservations of ecology and ecosystems.

**grounds that the Environmental Impact Assessment (EIA) consultant admits his faults in the EIA report.** The response from MoEF indicates that no such guidelines exist.<sup>31</sup>

*Though this application was more in reference to the Monnet Ispat case in Raigarh, but it is extremely important with reference to any activity that has potential to affect the local ecology and environment. With the new EIA Notification, 2000 replacing environmental priorities with investment priorities in complete violation of the mandate of the Environmental Protection Act 1986, under which it is issued, the concerns become particularly relevant.*

**Like those talked about before, in many a cases the government has refused to divulge any information even though the information asked were very fundamental in nature and did not transgress RTI Act, 2005. Kalpavriksh along with other organisations working on similar issues and concerns had filed Right to Information application seeking information on Environmental Degradation and the role of MoEF.**

They had sent 8 open letters to the MoEF and the Prime Minister's Office (PMO) raising serious concerns about the policies pursued by the MoEF and the continuous degradation of environmental regulatory conditions in the entire country. No response was received by any of the parties from neither MoEF nor PMO. After discussion with all the groups interested with the information thus asked for, they decided to file RTI applications finding out whether or not they have received the Open Letters and what action has been taken.

As a reply they first received a response from MoEF which was inadequate and confusing. The application was forwarded to the Impact Assessment Division alone and therefore, incomplete and confusing information was provided on selected letters, only those pertaining to the Impact Assessment Division. Based on it a follow up letter was sent by the NGOs to the Appellate Authority on 22nd January 2007.

The NGOs received a response (Order) from the Appellate Authority stating that the delay took place due to the "multiplicity of subject matter taken up in the "Open Letters". The letters, according to Appellate Authority covered almost the

<sup>31</sup> Refer to the Annexure v.



whole of MoEF. Moreover, the concerned file was declared to have been misplaced and could be retrieved only recently. The Order also said that they might call for a personal hearing later. The Response from the PMO indicated that they had received 4 letters, not received 3 and decided to be silent on 1. Also their response on the follow up was vague.

Right to Information responses on the 8 Open Letters were the following respectively:

\* Response from PMO dated 09.01.2007, signed by Kamal Dayani, Director, Central Public Information Officer. \* Response of the MoEF dated 09.01.2007, signed by J.M.Mauskar, Joint Secretary to the Govt. of India

**1st Letter:** *Why is the Government System undermining the Environment?* Issued to MoEF and copied to the PMO on 3rd Sept, 2004 with 66 signatories.

**PMO's response to the Right to Information application:** PMO forwarded it to the Secretary, MoEF on 22.9.2004.

**Response of MoEF to the Right to Information application:** Receipt not formally acknowledged by the MoEF.

**2nd Letter:** *Why is the Government continuing to 'Clear' Critical Wildlife Habitats?* Issued on 4th October 2004 to the MoEF and copied to PMO with 44 signatories

**PMO's response to the Right to Information application:** Letter not received by PMO

**MoEF's response to the Right to Information application:** Receipt not formally acknowledged by the MoEF

**3rd Letter:** *Will the Draft National Environment Policy Really safeguard India's Environment?* Issued on 29th October 2004 to the MoEF and copied to PMO with 92 signatories

**PMO's response to the Right to Information application:** PMO forwarded it to the Secretary, MoEF on 11.11.2004

**MoEF's response to the Right to Information application:** Receipt not formally acknowledged by the MoEF.

**4th Letter:** *Why are the expert Committees of Ministry of Environment and Forests dominated by ex-bureaucrats, politicians and engineers?* Issued on 8th April, 2005 to the MoEF and copied to PMO with 66 signatories

**PMO's response to the Right to Information application:** Not received by the PMO.

**MoEF's response to the Right to Information application:** Not received by the MoEF.

**5th Letter:** *Stop regressive changes to the Environmental Clearance Process.* Issued on 29th June 2005 to the Prime Minister of India, copied to the Secretary, MoEF, with 58 signatories

**PMO's response to the Right to Information application:** Pursued and filed by PMO

**MoEF's response:** Not received by the MoEF

**6th Letter:** *Please Make the National Environment Policy public before finalisation.* Issued on 26th August 2006 to the Prime Minister of India, copied to the Secretary, MoEF, with 63

**PMO's response:** Not received by PMO

**MoEF's response:** Receipt not formally acknowledged by the MoEF

**7th Letter:** *The Government of India must meet its obligations under the Convention on Biological Diversity.* Issued on 20th March 2006 to the Prime Minister of India, copied to the Secretary, MoEF with 58 signatories.

**PMO's response:** Pursued and filed by PMO

**MoEF's response:** Receipt not formally acknowledged by the MoEF

**8th Letter:** *EIA Notification, 2006: Against the Constitution, it's People and the Environment* Issued on 8th November, 2006 to the Prime Minister, copied to secretary, MoEF, with 58 signatories

**PMO's response:** PMO not acknowledged receipt or non-receipt of this letter

**MoEF's response:** MoEF to consider this letter appropriately, when the review of the EIA Notification, 2006 is undertaken.

***This example re-enforces that bureaucracy carries on with the legacy of non-transparency. The politicians as also the bureaucracy are not interested in giving this right to the people. In the present context of investment driven policies of the government the issue of non-transparency and non-acknowledgement of request of important information becomes much graver. Policies are made by whom and are made for whom? Can the issue of environmental protection be an issue where the government can claim to keep information out of the purview of public domain? It is however, but natural for the government to do so with implementing policies like single window clearance, public consultation instead of public hearing and then giving environmental clearances to projects like Vedanta in Orissa without taking into account any environmental and socio-political impacts. The matter is more critical with respect to tourism projects which have been completely been kept out of the ambit of environmental clearance process that it undertaken through environmental impact assessment. Under the new EIA notification, tourism projects even in ecologically sensitive areas like coast, wetlands, wildlife sanctuaries, mountains and desserts do not require any environmental clearance.***

*According to activists and social researchers, lack of disclosure by just stating that certain information cannot be provided because it is 'secret', had earlier jeopardized the interests of the people in various ways. For example, Section 3 & 5 of the Official Secrets Act was used to keep away information from the Narmada activists (NBA activists) by declaring the entire valley as 'secret'.<sup>32</sup>*

### **Initiatives by individuals and communities at the grassroots:**

Citizens across the country are using Right to Information to make government officials accountable to the common man. Citizens have filed an estimated 20,000 applications in the state of Maharashtra alone the law to inquire into the many problems that plague urban residents, like water crisis and the constant digging up of city roads. What's heartening is that people across a wide cross-

section of society appear to be using the Right to Information to seek redressal of their problems. Like Vijay More, a resident of Katraj in Maharashtra, who had to cope with acute water shortage in his neighbourhood. He used the RTI Act to ask how much water each person in a lower middle-class locality like his received compared to elite areas of Pune like Deccan Gymkhana and Fergusson College Road. Then there's Santosh Jagtap, owner of a video library who used the RTI Act to demand details about a flyover being constructed in the area, which entailed road widening (therefore land acquisition from local residents). Jagtap felt empowered enough by his experience to want to further citizens' awareness. "Now I hold meetings in my neighborhood and have inspired 10-15 people to use the RTI Act," he says proudly. As he puts it: "The Right to Information captured my imagination, as a faceless man can now put pressure on the authorities if they bungle."

These applications are important examples as all the issues have direct and indirect relevance to expansion of unregulated and unsustainable tourism in every parts of the country.

**An individual filed a Right to Information application with the Delhi Development Authority (DDA) for information on the modification of the Master Plan of Delhi till the year 2021.** DDA used Sec 7(9) of the RTI Act to deny information to the individual. DDA also transferred it from one Public Information Officer (PIO) to another within the same public authority. Commonwealth Human Right Initiative (CHRI), an NGO, argued that Sec 7(9) cannot be a ground for denial of information and that access to information should be provided in some other form that will be to the satisfaction of the requestor. CHRI also argued that being a single public authority, DDA could not transfer information requests from one PIO to another in order to buy time. The officers in duty are bound to provide assistance. This assistance must be provided within 30 days. No extension of time limit is allowed.

Both arguments found favour with the Chief Information Commission (CIC). The judgment said that such a document is a public document and cannot be denied to the people. DDA should actually '*suo-moto*' (by their own initiative, without any demand) make it available for scrutiny of the general public.

<sup>32</sup>"Right to Information: Transparency to boost efficiency", Dhurjati Mukherjee, INFA, The Central Chronicle, September 16th 2006.



In Tamil Nadu, fisher-folk in Urur Kuppam were agitated over a spate of construction and civil activities along the Adyar Creek at Srinivasapuram and near the Quibble Island cemetery. Officials had told them that an elevated highway was coming up, though no official announcement was made. The residents of the area, mainly people from the fisher-folk community, feared that there would be mass eviction of fisher-folk due to the proposed project.

K.Saravanan, one of the local residents of Urur Kuppam, Besant Nagar, filed Right to Information application with the People Works Development (PWD) for detailed information about the elevated highway coming up between Srinivasapuram and East Coast Road. The PWD after much excuses transferred the application to the Highway Department stating that Highway Department is the actual relevant authority for furnishing the necessary information about the project.

K.Saravanan filed an appeal with the State Information Commission against both PWD and the Highway Department for non-compliance in furnishing information. He asked for details from the PWD about the reclamation of marshy land adjacent to Quibble Island cemetery and laying of a road near Odaikuppam south of Besant Nagar beach.

In a letter dated November 14, the Divisional Engineer, Chennai City Roads Division, Highways Department, said the department was constructing an elevated highway in Odaikuppam, south of Besant Nagar beach. The exact cost of the project was "yet to be assessed" and a detailed project report was under way to reclaim land adjacent to Quibble cemetery. Permission and clearance including under the Environment Act and Coastal Regulation Zone Notification 1991(CRZ) were under the purview of a 'Beach Committee'.

In a hearing last December, the Commission ordered disciplinary proceedings against PWD and Highways department officials for the "tremendous delay" and "snail-mail" speed in supplying information. The information provided was "murky" and "inadequate", State Chief Information Commissioner (CIC) S. Ramakrishnan went on to observe that "the Commission is pained to note that this is not the first case concerning these two departments and despite having committed

enormous blunders, attracting widespread public attention of their failure earlier, they are still to educate themselves about the provisions of the RTI Act."

*Environmentalists say that these development activities point to a plan to subvert the Coastal Regulation Zone Notification, 1991 (CRZ) "As the CRZ permits development only along the landward side of existing roads, we apprehend the authorities may create a road-like area near Odaikuppam and subsequently argue it was a pre-existing road to facilitate massive construction activities along the shoreline," said Nityanand Jayaraman of the Corporate Accountability Desk.*<sup>33</sup>

The trend is common in different states. In Vishakhapatnam, developments are happening at a fast pace. People have no idea whether these developments are as per Master Plan of the area. Under RTI Act, any person can ask for the scrutiny of any plans or proposal about development projects.

We were informed by FYWA from Vishakhapatnam that **one of their members had filed an Right to Information application in 2007 with Vishakhapatnam Urban Development Authority (VUDA) to get a copy of the VUDA Master Plan in Telugu so that the community can read it and understand.** Upon being denied the same, the person filed a case with the High Court to get the same. HC gave the order that VUDA should publish the same in Telugu and make it available to all. The document has already been translated and is available to people in the VUDA office for scrutiny and reference.

**An activist brought to our notice the issue of toll collection on highways.**

The numbers of tolled roadways are increasing in the country. It has been observed that while local people traveling regularly for livelihood purposes have to bear the expenses of tolled ways, government vehicles are exempted from paying toll. **He filed a Right to Information applications asking for information about why and how certain entities are exempted from paying tolls on national/ state highways and the specific guidelines of the ministry, if any, on this.** He got the first-stage response from National

<sup>33</sup>Silence over project irks Information Commission, 29 December, 2006, <http://www.hindu.com/2006/12/29/stories/2006122905280400.htm>

Highway Authority of India (NHAI) only saying that they follow the recommendations of the Ministry of Roads and Highways. He has filed a second stage application to the parent ministry, Ministry of Roads and Highways, in Delhi. However, the ministry is yet to provide him with any specific information.

***Experiences from all over the country including tourist centric places like Goa showcases how investment driven tourism model that are unplanned and unsustainable can lead to plundering of the resources of the state and lead to extreme hardship to the local communities. Tourism has impact on local communities and their access to resources. Water supply to local communities has reduced because of demand from tourism industry. Supplying water and other facilities to tourists is more important than supply to local communities. Construction of hotels on coast have had impact on fisher folks and small traders. Moreover, permission of construction of hotels on the coast have had its major effect on the environment. Tourism also has strong linkages with other developments, like infrastructure, transportation, SEZ, urbanization, industrialisation etc. Therefore impact of tourism has to consider all these factors and processes. It has effects on livelihood pattern, land use, society and culture and they are difficult to measure.***

**A year back students of different technical colleges from all over Delhi sworn themselves to a first ever mission of getting all the city roads in place.** A group of engineering students, from IIT Delhi have started using Right to Information to ask for contract and tender copies for all the work in progress on different roads of Delhi. Under this they are also asking for inspection of these works. The Right to Information application have been filed in Public Work Department of Delhi. **Joint Operation for Social Help (JOSH) along with Aid Delhi, both civil society organisations, has initiated a 'Youth Task Force', comprising of students mainly from IIT Delhi to take this forward.** This task force has already filed around 35 Right to Information applications asking for records and inspection for different roads made by PWD. The main aim of this is to create a parallel monitoring mechanism by the citizens to check corruption and improve quality of the different infrastructural work going on, in

the city. In the days to come, it is expected that this task force, the number of which is increasing every day, will be filing hundreds of Right to Information applications on roads and other public work undertaken by the PWD in the city<sup>34</sup>

**A small-time tailor from Dadar has just prevented Mumbai pavements from falling prey to corrupt contractors and shoddy workmanship.** And in how he achieved this is a lesson for many of us who complain about our city's poor civic amenities, but are unwilling to do anything about the same. **Bhaskar Prabhu, 45, who operates out of a 350 sq feet gala on Dr Ambedkar Road, Dadar (east), saw the careless manner in which a contractor was laying inter-locking pavement blocks on the pavement outside his shop and sought details of the correct way of carrying out this work from the Bombay Municipal Corporation (BMC) under the RTI Act with BMC's Roads Department seeking details of the exact procedure of laying paver tiles and specifications of material to be used.** The information he got was shocking. The contractor was not only not following the right procedure of laying the tiles, he was also using sub-standard material. The BMC had specific step by step instructions for the particular work. He brought the irregularities to the notice of the Bombay High Court-appointed Roads Monitoring Committee (RMC).

The RMC members asked Prabhu to collect samples of sand from the site and submit it for testing. However, when Prabhu asked the contractor to sign on the sample to establish that it was from his site, the latter refused. Prabhu then got the sample endorsed by two other shop owners.

Even before the RMC could initiate action against the contractor after examining a sample of sand Prabhu had submitted with them, the contractor replaced the poor-quality material at the site and also deployed all the requisite machinery, including a plate vibrator, to fix the tiles.

The incident raised alarm throughout the city of Mumbai. The RMC officials decided to conduct similar sample tests across the city. The observations were

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<sup>34</sup>For more information call 'Youth Task Force'. To lend your support mail us at josh4india@gmail.com or contact Saurabh: (0) 9811872752 / Swati: (0) 9968286262. The address of Josh is :

Joint Operation for Social Help (JOSH), 405-F, Pocket II, Phase I, Mayur Vihar, Delhi 110091  
Phone: +91 11 43042669; contact@josh4india.org, josh4india@gmail.com

submitted to the BMC with appropriate suggestions to ensure quality control. This also formed a part of the report that was submitted by RMC to the High Court.

According to RMC members, had Prabhu not brought the irregularities to their notice, the contractor would have got away with shoddy work. "A little vigilance on the common man's part can go a long way in acting as a deterrent on the corrupt practices that take place around us in all walks of life." According to them every citizen of Mumbai can act like Prabhu and make a difference. All one has to do is observe and report irregularity concerning roads to RMC<sup>35</sup>

**Dilip Kumar, a Delhi-based management consultant, was shell-shocked when his flight 9W 830 on Chennai-Delhi route abruptly took off seconds before the touchdown at Delhi airport. Kumar wanted to know why did this happen and just how far they were from disaster. "They said they did not have the clearance and that's why he took off. My question to them then was: Why did the pilot come so low? Who's accountable for this?"**

Kumar was not satisfied by the pilot's reply that the plane was just 220 feet from the runway, a height from which passengers could see the tarmac but since he did not get an ATC clearance, he took off again. He wrote to the Directorate General of Civil Aviation asking him why were the lives of so many passengers were put to risk. When he didn't get a reply, Kumar filed an application under the RTI Act. This was the first time a passenger had filed a Right to Information application for information related to flight details.

"Subsequently I got a call from the Airlines who told me their pilots were trained. An ATC also called saying that there was another plane on the runway. This shocked me. I realized that RTI Act is a powerful Legislation," said Kumar.

<sup>35</sup> **Bhaskar Prabhu the Hero**, Bapu Deedwania, Mumbai Mirror,

<http://www.mumbaimirror.com/pmirror/mmpaper.aspx?page=article&sectid=15&contentid=20070210021641281f2f1c528>

We got the case study from HumJanenge@yahoogroups.co.in on behalf of Prakash Kardaley. It is also available at

<http://indiarti.blogspot.com>. it is for everything you want to know on RTIA, 2005 Yahoo! Groups Links

RMC can be contacted at [mumbairoads.volunteer@gmail.com](mailto:mumbairoads.volunteer@gmail.com)

***Government is proudly showcasing its open sky policy of allowing innumerable private companies to start up with new airways in the country. The options have doubled, the fares have dropped, the routes have increased but also the regulations have been water- downed to accommodate these private operators. The major impact has come in the form of dilution of safety mechanism. With a sudden upward jump in the number of domestic flights safety has become an important issue to the air passengers. Of course aborted landings or take offs do take place. But surely somebody must be held accountable for it after all it concerns the safety of passengers. With this Right to Information application, the other airlines are now a worried lot what if other passengers begin exercising their right to know. Well, this Right to Information application could go a long way not just in making passengers aware but also fixing responsibilities.***

In another interesting case, vide Right to Information application of Shri Ramesh Agrawal of Mayur Vihar, New Delhi sought the following information from the Ministry of Environment & Forests (MoEF) for the period 1996-2007:

1. Information regarding Environmental Clearance (No.J.13011/15/93-IA.II(T) dated Sept. 24, 1997) for first phase of 1000 MW TPP project of M/s Jindal Power Ltd. at Tamnar, District Raigarh.
  - i) Copy of letter No. JPL/RTPP/RKS/2.5/204 dated 26th Feb., 1996
  - ii) Copy of letter No. JPL/RTPP/RKS/2.5/426 dated 12th June, 1996.
  - iii) Copy of letter No. JPL/RTPP/RKS/2.5/1071 dated 11th Feb., 1997.
  - iv) Copy of letter No. 2077/TS/EZ/MPPCB/96 dated 7th Feb., 1997 issued by Madhya Pradesh Pollution Control Board.
  - v) Name of the Panchayats from whom No Objection Certificate (NOC) was mandatory. Copy of NOC submitted by project proponent.
  - vi) Was the public hearing mandatory for the project under EIA Notification 1994 and subsequent amendment in April, 1997?

- vii) Information regarding public hearing (a) copy of minutes (b) date and place of public hearing (c) Names of members of public hearing panel (d) Opinion of public hearing panel.
- viii) Information regarding punitive action taken against the proponent for violation of legal provisions i.e. commissioning of work on project prior to grant of forest clearance under the Forest (Conservation) Act.
- 2. Information regarding revalidation of Environment Clearance granted on 24th September, 1997 vide letter No. J.13011/15/93-IA.II(T) dated Set. 24, 1997 for stage-I of 1000 mw plant at Tamnar in Raigarh District.
  - i) Copy of application with enclosures, submitted for revalidation by M/s Jindal Power Ltd.
  - ii) What is the procedure for revalidation of such expired environment clearance?
  - iii) Copy of proceedings conducted for revalidation.
  - iv) Copy of agenda of the expert committee meeting where the decision to revalidate the environmental clearance was taken.
  - v) Information regarding any penalty imposed.
- 3. Information regarding environmental clearance granted for second phase of 1000 mw O.P.Jindal Thermal Power Plant -
  - i) Copy of NOC issued on 23rd February, 2006 by Chhattisgarh State Environment Conservation Board.
  - ii) Copy of requisite clearances for construction of Rabo dam on Kurket River submitted by M/s Jindal Power Ltd. Against additional information sought by committee vide Para (1) as mentioned in minutes of 20.04.2006.
  - iii) What are the reasons for imposing condition that the implementation of catchment's area treatment plan be initiated immediately and completed before installation of the plant as mentioned in Para (xi) of additional information sought by committee on 20.04.2006. Please inform what the term "before installation of plant" mean underlined above.
  - iv) Name of the Panchayats from whom NOC was mandatory for expansion. Copy of NOC submitted by project proponent.

- v) List of project (Rabo dam & Tamnar Plant) affected people who have been employed in the project.
- vi) Copy of submission by M/s Jindal Power Ltd. against additional information sought by committee vide Para (xvii) as mentioned in minutes of 20.04.2006.
- vii) Copy of minutes for expansion project (item No.2.2) in 32nd meeting of export committee held on 9th May, 2006.

In a complaint before the Chief Information Commission (CIC), Shri Agrawal complained that despite being intimated of fee of Rs. 318/- vide letter dated 22.8.06 from the Section officer (SO) of MoEF, against which an amount of Rs. 318/- was paid on 29.8.06, no information was provided to the applicant. The applicant therefore sought the following redress through his complaint petition to CIC:

1. Supply of information sought free of charge
2. Refund of charges of Rs. 318/- with interest @24%
3. Penalty under section 20(1) of the RTI Act.
4. The applicant had followed all the required formalities and non availability of sought information caused monetary loss and mental harassment, so compensation is justifiable till disposal of complaint

The CIC, in a very pro-active decision held that there can be no grounds for non-supply of information in the present case even after acceptance of fees for supply of the same. The fact that the intimation of fee amount u/s 7(3) (a) of the RTI Act was made only near the close of the 30 days time period given for actual supply of information in itself raises doubts about the bonafides of PIO & Jt. Secretary (Cross-Cutting Issues-II) of MoEF.

***Normally to avoid short-circuiting of the procedure for processing applications under the RTI Act such cases seek remedy in complaint rather than appeal u/s 19. It is advisable to first exhaust the provisions of section 19 i.e. First Appeal. This also is intended to ease access to information as a first appeal lies within the public authority providing the information, and therefore with direct access.***

In this case, however, the CIC found that the PIO had in fact recovered the requisite fees and yet defaulted on his obligations u/s 7(3) (a) of the RTI Act. He was, therefore, directed to provide the information sought within 10 working days of the date of issue of this order. Since this was not provided within 30 days, PIO must supply this information free of charge u/s 7(6) of the RTI Act refunding the fees collected on that account. CIC also directed PIO to showcase the SO of MoEF either in writing or in person about penalizing him u/s 20(1) of the RTI Act for malafide refusal to provide information to the complainant Shri Ramesh Agrawal.<sup>36</sup>

**Shri Punit B Juneja on 05.08.2006 made a Right to Information application to the PMO asking certain questions under the RTI Act 2005.**<sup>37</sup> The said application contained one question which was related to the Ministry of Women and Child Development. The application to that extent was forwarded to the said ministry by the CPIO of the PMO on 24.08.2006. The question was:

- Have any rules been made under the provision of the Section 37 of the Protection of Women from Domestic Violence Act 2005 (43 of 2005)? If yes please provide me with the copy. And if not, then please inform me that is the government dedicated towards its object of protection of women from domestic violence?

He received a response on 04.09.2006 from Ministry of Women and Child Development (MWCD) that said that:

In reference to your application under RTI Act, dated 05.08.2006, on the above Subject, a copy of which has been forwarded to this Ministry by the Central Public Information officer, Prime Minister's Office for supplying the information with regard to your enquiry relating to the rules under the Protection of Women from Domestic Violence Act, 2005, and to provide the desired information as follows:-

- i) The Rules under the Act have not been yet notified. The rules, which are to be prescribed under section 37 of the Act providing for, among other things, the qualification, experience and terms and conditions of the service of the Protection Officer, qualification and experience of the Service provider and registration of service providers and various forms, are being finalised in this ministry.
- ii) The Government is dedicated towards the objective of this Act, i.e to protect the Constitutional Rights of Women who are victims of violence within the family.

The response was signed by the Under Secretary to the Government of India, Ministry of Women and Child Development, Government of India<sup>38</sup>

*In this particular case Right to Information was used to extract information from the MWCD about the drafting and notifying of Rules which the Department is liable to frame as per the provisions of the Domestic Violence Act 2005. We can use the same tool for extracting information from other ministries and state departments that have links with our respective work.*

**It seems the Government though calls itself dedicated towards the objective of protection of women from domestic violence is not sincere enough as it is still in the process of framing the necessary rules and has not till date notified the same. Not only that, there has been constant conspiracies to dilute Right to Information. Knowing that, the RTI Act is a powerful tool that can be used to make governments accountable and fight corruption, at every stage of the campaign and movement towards Right to Information, the greatest onslaughts and impediments have been created by the officialdom (the officiating bureaucracy) entrusted with the task of administering this huge country. With the advance of transparency and information sharing, the bureaucrats and politicians, who manage the nation, see their empires crumbling.**

Last year in 2006 the Government officials had almost succeeded in influencing the legislators, including the Prime Minister to amend the RTI

<sup>36</sup> Complaint No. CIC/WB/C/2006/00224 dated 29/9/06 Right to Information Act 2005 - Section 18, referred from

chhattisgarh-net@yahooogroups.com, posted on Saturday, 18 November, 2006 at 12:06 AM by Mr. Ramesh Agrawal

<sup>37</sup> Referred from HumJanenge@yahooogroups.co.in

<sup>38</sup> (F.No.19-3/2005-WW(Pt.), August 2006.



Act to exclude the file noting from public scrutiny and render the Information Commissions as mere advisory bodies - changes that activists say would have taken the teeth out of the Act. These amendments, which were approved by the Cabinet, were done under pressure from a lobby of Union secretaries after an RTI application was filed with the Information Commissioner seeking details about the suitability criteria for secretarial appointments.

"Mass protests and intensive campaign" against the proposed amendment were launched throughout the country.<sup>39</sup> The sustained campaign, in which civil society organisations and individuals from all hues of life, including EQUATIONS participated, actually compelled the government to drop the idea of introducing any such amendment.

According to Sandeep Pandey, a social activist, RTI campaigner and winner of Magsaysay Award, "What is not widely recognised is that this mindset characterises not just secretaries and under-secretaries but those who man the lowest tier of government. For instance, in January 2003, the gram pradhans of Ambedkar villages and two MLAs (including a minister in the then Mayawati government) unanimously passed a resolution calling for the jailing of anyone demanding income-expenditure details from the Gram Panchayat Bharawan of Hardoi district, Uttar Pradesh, or for holding dharna to push for their claims. As people's representatives, they argued, they enjoyed a privileged position and were above providing a statement of accounts for public funds."<sup>40</sup>

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<sup>39</sup> Several former top bureaucrats, including former Union Home Secretary Madhav Godbole, had written open letters to Prime Minister Manmohan Singh urging him to keep file notings within the purview of the RTI Act. "Making the notings on the file open to people can be the single-most effective check on the rampant corruption both at the administrative and political levels," Mr Godbole had said in his letter to the Prime Minister. Refer

<http://www.asianage.com/main.asp?layout=2&cat1=5&cat2=154&newsid=239337&RF=DefaultMain>, Activists oppose changes to RTI 8/4/2006 12:43:59 AM

Arun Bhatia, another retired civil servant and social activist had filed Public Interest Litigation (PIL) in the Supreme Court against the proposed amendments to the Right to Information law. He urged the Court to declare them as 'unconstitutional'. In his petition sent to the Court, Bhatia pleaded that 'The proposed amendments to the Act, removing file notes from its purview, is a retrograde step and needs to be prevented by judicial intervention'.

<sup>40</sup> Government under your gaze: An article in Humjanenge by Sandeep Pandey

Before the RTI Act came into force, officials would humiliate citizens who asked for information and sometimes even threatened them. In their arrogance they did not even bother to do basic book-keeping.

**The RTI Act has made a difference to the situation of complete unaccountability. Today, if an ordinary villager goes to an office with an application seeking information under the RTI Act, the person would not be snubbed and threatened. Officials would promise to address the query in a bid to convince the person to withdraw Right to Information application. Although officials try their best to evade accountability, there is a realisation that they cannot continue to function like they used to. This is good news for democracy. The BDO of Behender block in Hardoi, UP recently confessed that it is only since people have started asking for information that the office has been compelled to keep books.<sup>41</sup>**

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<sup>41</sup> Ibid.

## CHAPTER-3

# Steps undertaken at various levels to popularize Right to Information

An NGO in Gujarat, **Mahiti Adhikar Gujarat Pahel** started a mobile phone number **9924085000** (launched on 12<sup>th</sup> May 2006) for all enquires about filing RTI. The number was widely published by the local and regional newspapers. Within two weeks they received more than 800 calls. It was one of the first such initiatives in the state of Gujarat. To their surprise, more than 60 percent of calls were from common citizens, especially from small and marginal farmers, agricultural laborers, workers, street vendors, potters, small depositors of cooperative banks etc. These callers were not associated with any organizations but have used Right to Information, only by reading articles and news items from the newspapers from time to time. Number of calls received per day was around 80 to 100. The questions asked were varied from benefits of the welfare schemes, revenue related matters, about check dams constructed, market place for selling their goods etc.

**How it has been used by common man from villages?** Sabarkantha district is one among six from Gujarat that are covered under National Rural Employment Guarantee Act 2005 (NREGA). In Balisana village of its Prantij Block, workers got the payment as low as Rs.3 to Rs.7 per day for their work. Sabar Ekata Manch<sup>42</sup> and Janpath<sup>43</sup> did fact-finding survey in Prantij Block and similar situations were found in all the works that were done in February and March 2006 after enactment of NREGA. Mr. Natu Barot of Sabar Ekata Manch contacted, Mahiti Adhikar Gujarat Pahel for guidance, about how to acquire muster roll and payment sheets of the works.

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<sup>42</sup> A forum of community based organizations working on Dalit Rights in Sabarkantha district.

<sup>43</sup> A network of voluntary organization in Gujarat.



Since this information comes under pro-active disclosure category, he was advised to just file an application asking the copy of the muster and payment sheets under RTI Act. He got the information immediately after filing an application by paying actual photocopy charges.

When these muster rolls were studied it came into light that, the amount calculated based on the quantum of work is being written in column 7 of the muster rolls and that which needs to be paid as per minimum wages is being noted in column 10. There is clear instruction in the printed muster rolls to pay whichever is less from column 7 and column 10. These irregularities and violations were brought to the notice of media through press conference.

Highlighting the issue, a small video film was produced with help of Janpath, and screened for the media. The gaps in the state government scheme for implementation of NREGA were submitted to the government. That built pressure on the government.

The payments made thereafter were all done as per minimum wage provision. Where quantum of work was more, the workers insisted for payment that is more than the minimum wages. Copy of the muster rolls received through the Right to Information application played a key role in effective implementation of NREGA.

**The Mahiti Adhikar Gujarat Pahel, refers people who try to get information through Right to Information applications as their “MAHITI YODHHAS”- the Mahiti warriors. In their words, “We all believe that in the long run these “MAHIT YODDHAS” will make systems accountable and will combat corruption!!”**

*For all of us this is a great learning. An encouragement that there are thousands of common citizens across the country who have started understanding and using 'Right to Information' as a tool to access their rights.*

**In Bangalore, NGOs working on Right to Information in Bangalore have initiated a RTI Bank. Print outs collected from Bangalore Mahanagara Palike (BMP) have been kept for the use by general public. Any body can walk in to Mahithi Hakku Adhyayana Kendra (herein after referred as Kendra)<sup>44</sup>, and**

<sup>44</sup> Located at No.54, 17th Cross, MC Layout, Vijayanagar, Bangalore

**inspect the records.** They may even take out Xerox copy of the documents at their own cost. About 200 documents of public importance are on display. Each document contains the following parts:

- A) Application filed under RTI Act
- B) Reply received from the PIO
- C) Complaint filed before the Commission/First Appeal u/s 19(1) of the RTI Act.
- D) Information received from the Appellate Authorities under the RTI Act.
- E) Orders of the Karnataka Information Commission (KIC).

The Kendra is assisting citizens in filing applications, Complaints before KIC and first appeals before the Appellate Authorities. The Right to Information activists are representing Complainants/Appellants before the KIC during hearing of cases. So far they have presented more than 400 cases before the KIC since December 2005.

The documents are particularly being used by law students, management students and other post graduate students for their reference and study of implementation of RTI Act. A few advocates are using the documents for their reference. Public Information Officers are also visiting the data bank for reference. The Kendra has even assisted some Public Authorities in drafting their suo-moto declaration as laid down u/s 4 (1) (b) of the RTI Act.

A few first appellate authorities are using the documents for their reference while disposing off their first appeals. Journalists also use the data bank for publishing reports. Documents are being used for educating citizens. Total number of documents stored is approximately 400.

About 40 complaints have already been filed before the Karnataka Lokayukta based on the information secured from the Public Authorities. The information available with the Kendra is not digitized. They are planning to host a web site in the near future.

Though their activities at present are confined to a few selected public authorities located in Bangalore City, they file at least five applications per day with various public authorities in Bangalore.<sup>45</sup>

**Parivartan and The Manjunath Shanmugam Trust (MST) on Nov 19, 2006 launched the National Right to Information helpline.** Another centre was also started with the same objective. **The new number is (080) 666-00-999, which was made operational from 1st May, 2007.** The Helpline offers information in three languages: English, Hindi and Tamil. It is open 7 days a week, from 8 am - 8 pm. Agents are trained to<sup>46</sup>

- Provide information about the RTI Act;
- Guide as to how the RTI Act can help resolve specific issues;
- Guide the caller through the application, first and second appeal process;
- Provide list of Public Information Officers and APIOs; as also
- Provide contacts of RTI Activists across the country

<sup>45</sup>The following RTI Activists are at present associated with the Kendra on a full time basis:

Mr. Amaresh, Trustee, Mahithi Hakku Adhyayana Kendra

Mr. Vikram Simha, Trustee, MHA Kendra

Mr. Gopal, President, Bangalore Nagarikara Vedike

Mr. K Shivaramanna, Editor, Nudigannada.

Mr. G Vincent, President, Kengeri Residents Welfare Association

Mr. Venkatesh Bhovi, Vice President All India Small & Medium News papers Federation

Mr. Mr. Ravi Reddy, President, Nagara Nagarikara Kriya Vedike, Bangalore.

Mr. T Ramu, Secretary, Vijayanagar Residents Welfare Association

Mr. Lakshmi Narasimhaiah, Deputy Secretary (Rtd.), Govt. of Karnataka.

<sup>46</sup>Parivartan is a Delhi based citizens' movement trying to ensure just, transparent and accountable governance. It was started in January 2000 by Arvind Kejriwal, 2006 Magsaysay Award winner and IIT Kharagpur alumnus.

Manjunath Shanmugam Trust (MST) is an international IIM alumni initiative set up to improve governance in Indian public life. Manjunath Shanmugam, a sales officer with Indian Oil Corp (IOC) and an IIM-Lucknow alumnus, was murdered on November 19th 2005 in Lakhimpur Khiri, UP, following his efforts to curb oil adulteration. A petrol pump dealer and seven accomplices were found guilty by the Lakhimpur Khiri Sessions court on 23 March 2007. The prime accused has been awarded the death sentence, and the others life imprisonment. The National RTI helpline was launched on the death anniversary of Manjunath.

You can contact Jaishankar, Trustee, Manjunath Shanmugam Trust,  
www.manjunathshanmugamtrust.org, Contact Number: +9199805-57735

The Helpline has received over 7500 calls to date from across the country.

**Another initiative at the grassroots that has made the local gram panchayat more accountable is the of Grama Sarkara, a wall-journal published by the Nagarakere Gram Panchayat, in Mandya district, Karnataka. It has been successful in creating a network among panchayat, its activities and people.**

This two-page wall-journal was launched in May 2006 with an aim to bring in transparency in the panchayat administration and to enlighten villagers on various schemes and privileges. **It was not any government circular or any rule that made it happen. It was possible with the election of Na Li Krishna as the Panchayat president in April 2006. As the head of Panchayat, he explored the rights and responsibilities of the system. He knew about the Namma Panchayti, a wall-journal brought out by the Abdul Nazir Saab Rural Development Institute, Mysore. He says, "Decentralisation efforts have ensured greater powers to the Gram Panchayat. This has also increased the responsibilities of its members. So we took certain measures to strengthen the Panchayat system and provide competent administration." This shows that if the representatives have the will to keep its people informed even before they ask for it, they can make information available to all.**

The first issue of the wall-journal gave an account of various taxes and also tallied the panchayat's tax collection with its expenses. It also published in bold letters the amount of ration assigned to ration shops. While the August issue reflected upon the significance of Jamabandi, a public event to review panchayat's administration, the October issue gave an account of expenditure for various proposals and their execution.

The villagers are impressed with the transparency of the panchayat administration and feels that the wall-journal is a bliss for those who otherwise remain ignorant of their privileges. For instance, people were unaware that they were entitled for Rs 1000 to perform the last rites of those who are below poverty line. When this piece of information was published in the September issue of Grama Sarkara, people started availing the benefit. Shivappa, a farmer in Uppara Doddi village, need not depend on middlemen to know what

facilities he can avail of and how much tax he has to pay. Issues of Grama Sarkara did the job without any commission. This accountability, as Shivappa says, has developed a sense of belongingness among the villagers towards the panchayat.

**Grama Sarkara is the first venture of its kind in Karnataka and has received encouraging responses from various quarters.** In his letter, V P Baligar, the then State Secretary for Rural Development and Panchayat Raj, had expressed his happiness over the new venture and wished other Gram Panchayats to follow the Practice. Even the Zilla Panchayat Chief Executive Officer has referred this effort to other Gram Panchayats.

Some panchayats have even requested for guidance to start a similar initiative. As a result, the Panchayat is now sending 70, from a total of 1,000, printed copies by post. Rest is distributed by hand and displayed in public places. The very first issue was delivered to all the houses that come under the Panchayat but now people demand their copy.<sup>47</sup> It has been rightly said by Anita Pailoor, the journalist who reported this initiative, that at a time when corruption has become synonymous with public work and people know nothing about their Panchayat, an endeavor like Grama Sarkara sustains hope for transparency and dedication.

***It is important to remember that LSGIs are meant for democracy at the grassroots - opportunity for people to participate in local planning processes, engage with the various schemes offered and implemented by the government and to interact with their local representatives directly to ensure that their concerns are effectively addressed and their money appropriately utilized. RTI is a key tool that ensures public scrutiny and transparency. Function of LSGIs is bound to become more effective and meaningful when people can make informed choices and participate in the decision making process on the basis of actual facts and not political manifestoes. Although many State PRI Acts give rights and powers to Gram Sabha to supervise and scrutinize the functions of panchayats, the***

<sup>47</sup> For more details on the same, contact Na Li Krishna on 9242834721.

The right to know, Anita Pailoor reports. Refer

<http://www.deccanherald.com/deccanherald/dec52006/spectrum181332006124.asp>

***ground reality is that, level of participation and quorum in gram sabha meetings continues to remain very low. In such a scenario, this kind of initiative will raise awareness of people towards the functions of panchayats, their duties and corresponding rights of the local people.***

Apart from grassroots initiatives to popularize RTI Act, governments in different states and at different levels have also taken up steps to popularize the Act and make it effective.

In an innovative initiative, Chhattisgarh has introduced the Right to Information Act (RTI) in school curriculum. It is a move aimed at making its people more aware of their rights at an early age and growing a culture of transparency in the young state.

The State Council for Educational Research and Training (SCERT) has decided to include an extensive chapter on the RTI Act in its proposed books for class VIII in the upcoming academic session in what may be the first such attempt in the country. The chapter, titled Suchna Ka Adhikar, in the social science book for Class VIII explains through examples how it can be used to protect a person's rights. It also details how a person can approach a government department for certain information, how and what amount of fees need to be paid and what the grievance redressal mechanism is, if the person is dissatisfied with the information provided by the authorities. A case study in the chapter depicts how a group of daily-wage labourers, in a backward Chhattisgarh village, were being paid lower than mandated wages. A labourer's niece comes to know of the RTI Act and files a petition under it, and secures the correct wage for the workers.

SCERT director Nand Kumar told that "The chapter is being introduced in the syllabus on an experimental basis but we aim to make it a permanent part of curriculum for students of social studies in all senior classes."<sup>48</sup>

**When the BPO call centers are buzzing with businesses in Gurgaon and Bangalore, one new call center is humbly set out to create a revolution – in a place and State that is likely to come last to your mind in IT hotlist – Patna, Bihar.**

<sup>48</sup> Chhattisgarh puts a chapter on RTI Act in school books, The Indian Express, Thursday January 18, 01:42 AM

This new call center, unlike others centers, which are supporting foreign businesses, will be serving ordinary citizens of Bihar. **Aptly named "Jankari", this call center will help rural population of Bihar to file Right to Information applications and get their necessary information from all Government departments of Bihar.**

It is a fact that understanding and filing RTI applications are still unreachable to the huge rural population and the Government, and Bureaucracy, are not taking proper efforts to educate them and the hope that they will do so in future is also dull.

In this situation, **Bihar Government has introduced the novel idea of Right to Information call Center- JANKARI**, as it is called, is like any other call center, where professionals will be available from 9 AM to 6 PM to take calls on two different lines: Information line and Application line. While the people can use the Information line - free of cost -- to ask any general questions on Right to Information, Application line can be used to file application, with a cost of Rs.10, which is added to the telephone bill of the applicant and saves significant effort for the applicant in making a Demand Draft or Money Order.

This novel program created in Partnership with Parivartan, is very unique. Advantage for the common man in using this facility is that the person does not need to know how and where to file the application and also the art of writing, i.e. even an illiterate can file an application with help from the professionals at JANKARI. . Chief Minister Nitish Kumar, is one of the prime supporters behind this idea, and has warned strict action against erring officials and promised continuous support to Right to Information efforts in expanding.

The applicants receive the reply directly from the PIO within 30 days of applying or else can call the JANKARI again to file the first appeal.

Parivartan has called for continued support for the RTI efforts from the Government and requested people's movement to take this idea to every rural village.<sup>49</sup>

<sup>49</sup>February 11, 2007,

[http://www.thesouthasian.org/archives/2007/bihar\\_government\\_leads\\_right\\_t.html](http://www.thesouthasian.org/archives/2007/bihar_government_leads_right_t.html) Bihar Government Leads Right to Information, Somu Kumar, Volunteer AID and works to support RTI in India.

**Panchayat Department in Himachal Pradesh has asked to incorporate Right to Information in training schedules.** Mr. P J Rana, the Chief Information Commissioner of the state of Himachal Pradesh has issued directions to the Panchayati Raj Department to incorporate the RTI Act in all training schedules for the representatives of the Panchayati Raj Institutions. Describing RTI Act as a historic event that would "empower the humblest by providing access to information" he said that training on RTI was particularly important for the public representatives of their rights and duties.<sup>50</sup>

***This is a very important initiative to enable the local institutions to function as institutions of self governance. Such training will enhance awareness of representatives of Panchayati Raj Institutions (PRIs) about their right to seek information from the state and district administration and concerned departments. It can be expected that in turn these representatives will have greater accountability and responsibility towards peoples' right to information. In other states also, training on Right to Information should be an integral part of capacity building module of the PRI representatives.***

**The Kolkata Municipal Corporation (KMC) has declared officially that it is getting ready to 'open up' under the RTI Act.** So very soon the residents in the city will have the chance to seek answers to queries like:

How many times has a road been re-laid near your house?

How much is the KMC spending on renovating its own buildings?

How much is spent on putting up a new tap?

How many construction plans are awaiting sanction?

What is KMC's budget to tackle waste in the city?

Widely seen as one of the most corrupt public agencies, the civic body has now appointed a senior official as its public information officer. "Pashupati Basik, DMC (personnel), has been appointed as the nodal officer in accordance with the provisions of the RTI Act.

<sup>50</sup> Refer

<http://www.newkerala.com/news4.php?action=fullnews&id=57640>, 27th November 2007 by PTI

Civic officials agree that Basik's appointment is the first major step towards setting up a public-friendly information structure. The information structure, however, would take some time to be operational. Administrative sources said the delay in implementing the RTI Act and appointing the information officer is primarily due to "political reasons". "Some officials, who are politically influential, have for long been stalling the information officer's appointment, as it is considered a powerful post," a source said. However, some officials is also of the opinion that though RTI Act may help citizens in getting some basic information, the complex issues - tax scam, purchase, bounced cheques, adjustments for payments etc - may remain out of scan because there is nothing available "on record" for most such issues. Even some of the queries made by chairman of the municipal accounts committee have been futile. Reason being that no records are available. Mixed reactions notwithstanding, RTI Act is surely expected to shake up babudom to a large extent.<sup>51</sup>

***The above example are few but not rare. They should not be taken as indicators that RTI Act has made the functioning of the government completely transparent. The fight is on and it has to be continued by you, me and everybody.***

***However, much remains to be done to say that the movement towards RTI has been successful and our governments at the Centre and the states are ready to share information. Still ministries and departments ask Right to Information applicants to apply in particular forms which are absolutely unwarranted under the RTI Act. They are obliged under law to take applications written on plain paper as well. Another issue of harassment of the applicant is that of mode of payment while applying for information under RTI Act. Most of these ministries and departments insist on demand drafts. Apparently even the Rs 10 fee is asked to be given in a draft!! So, in effect an application generally ends spending Rs 40- Rs 10 of the draft amount + Rs 30 payment attached for making the draft of Rs 10. The RTI Act is very clear on accepting cash while applying for information. "They cannot ask for drafts. Cash is completely legal and they have to accept it," said Kejriwal, a member of Chief Information***

*Commission and also one of the few people whose relentless fight for the cause have finally resulted in the government passing the RTI Act.*

*The RTI Act is our act. We should use it to ask the government to provide us information on why and how it takes decisions, when they are against the spirit of its mandate and anti-people.*

We hope to continue our dialogue and engagements on issue related to Right to Information and Tourism. For more information write to EQUATIONS. Our address is:

#### **EQUATIONS-Equitable Tourism Options**

**#415,2C-Cross,**

**4th Main,OMBR layout**

**Banaswadi, Bangalore-560043**

**Ph:+91-80-25457607/25457659**

**Fax:+91-80-25457665**

**Email : info@equitabletourism.org**

**Url:www.equitabletourism.org**

<sup>51</sup> Information officer in place, Kolkata Municipal Corporation gets into RTI mode, Indian Express, Monday February 12, 02:36AM Refer <http://in.news.yahoo.com/070211/48/6c03a.html>

## Annexure: I

### Tourism growth - some pointers for concern

- As far as tourism activities are concerned, it is important that local communities constantly keep a vigil and ask for information about new activities that are pushed across or are in the proposal stage. It is a little known fact that tourism development projects propagated as “clean and green” and employment generating, have both direct and indirect impact on peoples' rights, livelihood access to resources and social fabric and also results in displacement. Tourism has also played a role in the eviction of indigenous people, fishing communities and people in general from their ancestral lands only to then open them up to 'tourism', packaged in various names like “eco-tourism”, “beach- tourism”, “wildlife tourism” “adventure tourism” etc. While it might seem that the land requirements for tourism activities are not high, this is not true. The tourism and entertainment SEZ in Gorai-Manori is acquiring 1000 hectares, the Delhi Commonwealth Games Village STZ requires 250 acres and the Harayana government's planned Tourism Economic Zone in Gurgaon to build “Disneyland” is going to grab huge tracts of land as well although no official figure on size of this project has yet been quoted. A multi-million dollar project to build a huge statue of Buddha and develop Kasya (the site where the Buddha spent his last days) in Kushinagar as a tourist site threatens to displace 700 families from 600 acres of cultivable land.<sup>52</sup> Also the assumption that tourism generates huge foreign exchange and creates direct and indirect employment opportunities in services associated with it. However, close scrutiny reveals that tourism development leads to involuntary displacement of people, extensive exploitation of natural resources, encroachment of community properties and exploitation of labour. Tourism industry uses resources which fall

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<sup>52</sup>Refer “*The Buddha Would Not Have Wanted This*”

<http://www.thesouthasian.org/August25,2007>



under jurisdiction of Local Self Governing Institutions (LSGIs) like fresh water, land, local infrastructure. Hence consent of the LSGI, prior to making any use of local resources should be mandatory. However, experiences from the field indicate that tourism development has been a completely top down process, in which, the powers, rights, functions and duties of the LSGIs, conferred by the 73rd and 74th Amendment of the Constitution, are neglected or even sidelined.

- Privatisation is on the rise. The UPA government at the centre and most of the state governments, irrespective of political lineage, are showcasing privatization of services, including basic services like education and health, as the only option left behind to ensure availability and quality of the same. The mantra in the corridors of Parliament of India as well as State legislative bodies is that privatisation shall lead to more investment; more investment shall lead to better and wide services. Privatisation is being projected as the panacea of all ills. The international financial institutions, like World Bank (WB), International Monetary Fund (IMF) and Asian Developmental Bank (ADB) are behind this push for privatisation.
- Although tourism is still not identified as a significant sector, the World Bank's lending to tourism is on the rise worldwide. Analysts hold that literature on tourism within the Bank has significantly increased in recent years along with the demand for support and advice from developing countries (Hutchins and Mann, 2007). While the IBRD's and Global Environment Facility (GEF's) interface with tourism continues to be biodiversity, cultural preservation and transportation, IFC and MIGA continue to fund large-scale, largely foreign-owned tourism projects, especially accommodation establishments. Three of the Bank's currently active projects focus exclusively on tourism (the Jordan Cultural Heritage Tourism and Urban Development Project, Montenegro Sustainable Tourism Development Project and the Mozambique Transfrontier Conservation and Tourism Development Project) and hundreds others have tourism components in them. But what are the possible impacts of the Bank's re-entry into tourism? Has the Bank learnt its lessons from past experiences and are its interventions in tourism any more mindful of possible adverse socio-economic, cultural and environmental impacts?

Analysis of available data indicates, despite denial of direct engagements in tourism, the Bank Group's influence on tourism policy and models is high. Both at an ideological level and in its implementation, the Bank has seriously faltered in its tourism operations.<sup>53</sup>

- In the Union Budget 2006-2007, the plan allocation for tourism sector was increased from 786 crore to Rs.830 crore in 2006-07. Out of this 422 .5 crore is for the development of tourism infrastructure. The National Highways Development Programme (NHDP) got an allocation of Rs.9,945 crore in 2006-07 from Rs.9,320 crore in 2005-06. Government also decided to develop 1,000 kms of access-controlled expressways. In most cases these were taken ahead through private parties. Considering the present policy of the government of giving high importance to infrastructure development like laying down of roads across the country it becomes important for citizens to have information about their policies and investments. The matter attains more concern as the process of infrastructure development in the country including roads, are being exceedingly facilitated by the corporate powers. The international financial institutions (IFIs) like World Bank, Asian Development Bank are playing an important role facilitating the policies of expansion. They are recommending policy changes and institutional reform that enable privatization.

In the Budget 2007-08 provisions for building tourist infrastructure has been proposed to increase from Rs.4.2 bn in 2006-07 to Rs.5.2 bn. Higher investments have been made to develop roads and infrastructure facilities. It has been estimated that 20,000 more hotel rooms are required for the Commonwealth Games 2010 in Delhi. To cater to the demand for rooms 5 year holiday from income tax for 2 star, 3 star and 4 star hotels as well as for convention centres with a seating capacity of not less than 3,000 has been proposed. They should be completed and begin operations in the National Capital Territory of Delhi or in the adjacent

<sup>53</sup> Refer to "History Repeats itself- An account of the World Bank's controversial role in tourism development." EQUATIONS, September 2007, A paper for the depositions of the Tourism Sector Groups at the Independent Peoples Tribunal on the World Bank Group in India, 21st - 24th September 2007, New Delhi



districts of Faridabad, Gurgaon, Ghaziabad or Gautam Budh Nagar during the period April 1, 2007 to March 31, 2010 to avail the tax holiday. Moreover, venture capital funds that invest in hotel-cum-convention centres of a certain description and size will enjoy a pass through status in the recent budget. This is like to increase private investment in this sector.

## Annexure II

### Format to apply for information under the RTI Act.

Though there is no set format for Right to Information application, this format can be used to apply for information under RTI Act.

To,  
The Public Information Officer,  
(Name of the Office with Address)

(1) Full name of applicant:  
(2) Address:  
(3) Particulars of the information required  
(i) Subject matter of Information:  
(ii) The period to which the information relates:  
(iii) Description of the information required:  
(iv) Whether the information is required by post or in person:  
(The actual postal charges shall be included in additional fees)  
(v) In case by post:  
(Ordinary, Registered or Speed)

(4) Whether the applicant is below poverty line:  
(If yes, attach the photocopy of the proof thereof.)

Place:  
Date: Signature of applicant

**Note:** Pay Rs. 10 by cash or by Pay order. For Maharashtra Government bodies you can also affix a 10 rupee Court Fee stamp on the application as application fee. For Central Government bodies the most convenient way paying the application fee is by an Indian Postal Order.

Sign it and take a Xerox copy for your record. Send it to the office from which you are seeking information. If you or your representative is delivering it personally, get an acknowledgement on the Xerox copy. You can also send it by courier, or registered post with acknowledgement due, in which case it would be useful to keep the acknowledgement. Some offices cause problems in accepting hand-delivered Applications. In such cases, courier or post is advisable. The most convenient method is to send a 10 rupee Indian Postal order available at most Post offices and leave space Pay to blank.

**Within the mandated period of 30 days, one of the following should happen:**

1. You will get the information you have sought. The Public Information Officer (PIO) may ask for payment of fees, which is prescribed as follows:
    - i. For A4 size copies or typed information Rs. 2 per page.
    - ii. For information given on Floppy or CD- Rs. 50/
    - iii. Maps, books or documents, which have been priced earlier, the price fixed for these.
    - iv. For inspection of files or records-no charge for first hour and then Rs. 5 per every fifteen minutes.
    - v. Postage charge would be added to this.
- The period between the PIO asking for payment of fees, and the actual payment of fees, is over and above the period of 30 days allowed to the PIO to give information.
2. The information asked for may be denied by the PIO giving reasons mentioned in the exclusion clauses.
    - i. If the reasons are right, you cannot get the information.
    - ii. The reasons may be wrong, or irrelevant.
  3. You may be given partial or irrelevant information.

4. No answer may be sent to you. Under Section 7 (2) if no reply is given in 30 days, it is 'deemed refusal'.

In case, of 2(ii), 3 or 4 above, you should go in appeal against the PIO to the first Appellate Authority, who is from the same department and senior to the PIO. If the PIO refuses to give the information he is also supposed to give you the name and address of the Appellate Authority. If no reply is received, or the PIO has not mentioned the name of the Appellate Authority, you could address the appeal to the Head of the Office.

If the PIO has refused information with malafide intentions, or not replied at all, he is liable for a penalty of Rs.250 per day, for the period of delay; ie until he gives the information. This penalty is payable by the PIO from his salary and he is also liable for disciplinary action. The penal provisions of Section 20, are the real teeth of the Act, which if properly implemented will bring the rule of law into our Governance. Also, when the information is provided after the period of thirty days is over, no cost can be charged for providing the information.

- The appeal must be made within 30 days of receiving the PIO's letter, OR Within 30 days from the last date on which the information should have been received - in case no letter is received.
- The Appellate authority must dispose off the appeal within 30 days,- OR after giving reasons for delay - in a further period of 15 days; ie. a total of 45 days, if a letter giving reasons is issued.
- An appellate authority may give a personal hearing to you and the PIO. However, it is not mandatory for you to attend a personal hearing.
- The Appellate Authority though belonging to the same department as the PIO is actually conducting a quasi-judicial proceeding and expected to give a fair and unbiased order based on your arguments in the appeal. He is also required to give reasons for arriving at a decision. The actual outcome may be:
  - a. You get an order directing the PIO to give the information (reasonable chance):
  - b. You may get an order rejecting the appeal and refusing to give the information.

- c. You may get no reply at all. This is deemed rejection, once the period of 30/45 days is over.

If you are not satisfied with the outcome, you can file a second appeal with the Information Commissioner within 90 days. There are separate Information Commissions for the State and for Central Government Organisations. The power to penalize PIOs is only with the Information Commissioners. It will be useful to take a look at the Act and its rules yourself by that time.

**If the PIO seeks to charge you more than what is stipulated in the rules, refuse to pay and complain to the Information Commissioner-Section 18 (d) of RTI Act. The PIO has no authority to charge you more than what is specified under the rules. He cannot ask you to pay for the cost of collating or gathering the information.**

On the advice of the Section officer, the complaint will be forwarded to the concerned section with a Number. If you visit the Tapaal section after a week (some times it is a week otherwise the next day), you can get the number and the date on which day it was forwarded to the concerned section. By visiting the concerned sections, you will come to know the status of the application.

**It is important to remember that acknowledgement is not only compulsory for RTI applications, it is compulsory for the other letters. Always submit the letter at the Tappal Section; with out fail you will get an acknowledgment. It is advisable not to submit the complaints directly to the concerned officials. They will not have the seal to give acknowledgment.**

## Annexure III

### Information that can be denied

There are some matters where information can be denied, which are given in Section 8, and Section 9 of the RTI Act. Quoting these from the RTI Act:

#### Section 8.

- (1) notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,-
  - a. information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;
  - b. information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;
  - c. information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;
  - d. Information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;
  - e. information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;
  - f. information received in confidence from foreign government;
  - g. information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;
  - h. information which would impede the process of investigation or apprehension or prosecution of offenders;
  - i. cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers;

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters, which come under the exemptions specified in this section, shall not be disclosed;

- j. Information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

- (2) Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interests in disclosure, outweighs the harm to the protected interests.
- (3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:

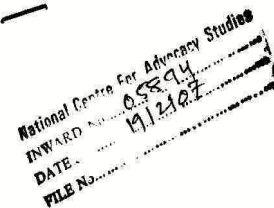
Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.

### Section 9

Without prejudice to the provisions of section 8, a Central Public Information Officer or a State Public Information Officer, as the case may be, may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.

### Annexure IV

## Information given by Ministry of Commerce & Industry on SEZ



F. No. R-22(1)/2007-RTI  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce

To,

New Delhi, the 14<sup>th</sup> February, 2007

Ms Madhumanti,  
Research Associate,  
NCAS, Serenity Complex,  
Ramnagar Colony, Pashan,  
Pune 21, Maharashtra.

Madam,

Please refer to your appeal dated 11/1/2007 addressed to the Appellate Authority, Right to Information Act in this Department. The Appellate Committee has considered your application in its meeting dated 13.2.2007 and passed an order in the matter. A copy of the above order is enclosed.

As per Section 19(3) of Right to Information Act, 2005, you may file an appeal to Central Information Commission, New Delhi within 90 days of the issue of this order.

Yours faithfully

Alternate Coordinating CPIO for Appellate Authority  
Tel. 23061024

Copy along with copy of the order to:

1. Shri A.G.Mukim, Joint Secretary, DOC.
2. Shri Dinesh Sharma, Joint Secretary, DOC.
3. Shri Yogendra Garg, Director, DOC for compliance with the order.
4. Sr. PPS to SS(CLF).
5. PS to SS&FA.

**APPELLATE COMMITTEE  
DEPARTMENT OF COMMERCE**

**(Right To Information Act - Section 19)**

**Name of the Appellant: Ms Madhumanti**

**Name of CPIO : Shri Yogendra Garg, Director**

**Composition of Appellate Committee:**

- |       |   |   |  |
|-------|---|---|--|
| (i)   | Dr. Christy Fernandez,<br>Special Secretary | - | Chairman                               |
| (ii)  | Shri A.G.Mukim,<br>Joint Secretary          | - | Member and Officer senior to CPIO      |
| (iii) | Shri Dinesh Sharma ,<br>Joint Secretary     | - | Member and Joint Secretary (RTI)       |
| (iv)  | Dr. A.R.Goyal,<br>Deputy Secretary          | - | Member Secretary and Coordinating CPIO |

**Order**

**1. Information sought by applicant:** Information on SEZ proposals

**2. Decision of CPIO:** The applicant has sought information on SEZ proposals like POSCO, Tata Steel, IDCO, Jindal, Reliance etc. from CPIO. The CPIO through his letter dated 12<sup>th</sup> December, 2006 has rejected u/s 8(1)(d) and 9 of the RTI Act.

**3. Grounds of Appeal:**

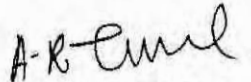
- SEZ projects have large public impact as they have either started with land acquisition, or issued notices or are in the process of conducting ground level surveys etc and by doing so, impacting large number of people directly and indirectly.
- Thus these SEZ projects are likely to violate, or have already violated the economic, social and cultural rights of local communities and threaten their right to life and livelihoods; hence information about them cannot be kept in the private domain.
- Therefore for upholding public interests, proactive disclosure should have been followed by the state and central government, which has not happened. Any further failure to disclose this information at this retroactive level violated the public interest. Since very basic level of information is available regarding the projects and the nature of the projects remain unknown, this kind of secrecy and lack of transparency is leading to potentially explosive situations in various parts of the country.

- Project proposals do not constitute as trade secrets, therefore there is no question of infringement of copyrights when such information is provided. Also project proposals cannot be treated as commercially classified information in the light of the fact that decisions regarding them have already been taken by the government and disclosure of such information will not harm the competitive position of the third party.
- The appellant's work as a researcher for promoting human rights and governance transparency does not involve any commercial activities. Thus she does not have any commercial interest or trade interest either in the project proposals, or she or her organization is in any competitive position with respect to the third party which may undermine their competitiveness.
- Therefore the information sought clearly falls in the preview of the disclosure within the RTI Act 2005 and cannot be denied on any grounds to the public.

**4. Appeal Details:** Same as above

**5. Decision:** The Appellate Committee considered the appeal of the appellant and directed the CPIO to provide the copies of project proposals submitted by the promoters if it does not violate any confidentiality clause.

**6.** Vide Section 19(3) of the RTI Act a second appeal against the decision under sub-section (1) shall lie within 90 days from the date on which the decision should have been made or was actually received, with the Central Information Commission.

  
**Member Secretary and Coordinating CPIO**  
**Department of Commerce**  
**Dated 14.2.2007**



## Annexure: V

### Application filed by Kalpavriksh relating to the Guide lines of Public Hearing

By Speed Post

Government of India  
Ministry of Environment and Forests  
IA Division

Paryavaran Bhawan, CGO Complex  
Lodhi Road, New Delhi- 110 003

Date: 20<sup>th</sup> September 2007

File No. J-11012/31/2007-IA-II (I)

To,

Ms Kanchi Kohli  
134, Tower 10  
Supreme Enclave  
Mayur Vihar-1  
Delhi- 110 091

Subject: Information sought under RTI Act regarding Authorization/Rules/Guidelines to be followed when a Public Hearing is postponed and EIA Consultant acknowledges his faults in the report by Ms. Kanchi Kohli, Delhi.

Madam,

This is with reference to your application no. Nil dated 17.08.2007 under the RTI seeking information regarding Authorization/Rules/Guidelines to be followed when a Public Hearing is postponed and EIA Consultant acknowledges his faults in the report.

2. I am directed to inform you that there are no guidelines for such cases.

  
(Sanchita Jindal)  
Additional Director

## Annexure: VI

### Excerpts of Important recent information on RTI

#### Members of the National Coordination Committee on the Right to Information formed.<sup>54</sup>

Members of the National Coordination Committee on the Right to Information (RTI) Act appointed by the Central Information Commission, has been mandated the task of reviewing the suggested amendments to the RTI Act as well as coordinating suggestions made by various state information commission on how to make the Act more effective.

The members of the committee are Punjab State Chief Information Commissioner (SCIC) Rajan Kashyap, Haryana SCIC G Madhvan, Karnataka SCIC KK Misra, Maharashtra SCIC Suresh V Joshi, Nagaland SCIC P Talitemjen Ao, Uttarakhand SCIC RS Tolia, Chhattisgarh SCIC AK Vijayavargiya, Bihar SCIC SS Singh and Central Information Commissioner MMAnsari.

According to the committee members, major roadblocks in the way of effective implementation of the RTI Act are lack of adequate awareness among the common people as well as the officials, the mindset of the public authorities that has always forbade them from telling about their working and lack of transparency in the government functioning.

The committee is expected to submit its report within six months.

The members said despite initial hiccups, the RTI Act is playing an important part in making the common people aware of their rights.

<sup>54</sup> The message was posted by Sri. Vishal Kudcharkar, an RTI activist in Hum Janenge



### **Relevance of Official Secrets Act now limited, RTI Act will prevail if there's any direct conflict, says CIC<sup>55</sup>**

Chief Information Commissioner (CIC) Wajahat Habibullah has said he is "presuming" the Government is undertaking a review of the 1923 Official Secrets Act (OSA). He said: "I am very clear that when there is a direct conflict between the OSA and RTI Act, it is the RTI which prevails. The OSA cannot be used in a manner in which it is inconsistent with provisions of the RTI Act."

"The OSA is a colonial law that protects the Government from the public. In a democracy, the public is the Government. Earlier, OSA was the guiding principle in terms of custody of information held by the Government. Now custody of information held by the Government has been given to the RTI Act," he said.

According to Habibullah, even on the question of supplying information or documents marked "secret" (thereby, bringing it under OSA), the competent authority or information officer could use discretionary powers to disclose details. This, he said, was relevant, for instance, to Section 8 (j) of the RTI where a Central Public Information Officer can disclose personal information that has been sought provided "public interest in disclosure outweighs the harm to the protected interests."

As per provisions of Section 8(d) and (e) of the RTI Act, in case the Right to Information request pertains to commercial information or information to a person in his fiduciary relationship, the competent authority, if convinced that "larger public interest" is served, may part with it. The "competent authority", Habibullah said, is the Department of Personnel and Training which holds administrative supervision of the RTI. "Even documents marked secret or confidential, which would normally attract provisions of the OSA, can be disclosed since the discretionary provision is there in the RTI Act."

In case these requests are turned down, the applicant can appeal to the CIC and argue about the public interest served. With such RTI provisions, the relevance of OSA has become very limited," he said.

<sup>55</sup>The message posted by Sri. Rahul Mangaonkar in HumJanenge, <http://www.indianexpress.com/story/228511.html>, Article by RITU SARIN Posted online: Monday, October 15, 2007 at 0000 hrs

His comments are significant given the fact that the Second Administrative Reforms Commission has recommended scrapping of the OSA. The Ministry of Home Affairs is examining the recommendation.

### **Judiciary not above law<sup>56</sup>**

Issues of judicial accountability and extending right to information laws to the judiciary have once again come to the fore in the wake of certain allegations against former Chief Justice of India (CJI) Y K Sabharwal. On September 21, Delhi high court moved against three Mid Day journalists for reporting about the former CJI.

Stonewalling is not the best way out. The Delhi High Court (HC) stayed a CIC directive to the law ministry to make the file pertaining to appointment of judges' public. By blocking the application of right to information laws to itself, the judiciary is not doing itself a favour.

The Supreme Court (SC) has asked the government to amend the RTI Act to take it out of the purview of CIC, an autonomous body, and also to provide that the CJI can stop any release of information. SC has, however, praised Right to Information on other occasions. It rejected the government's claim of privilege on the 'blue book' containing security instructions for the Prime Minister in UP vs Raj Narain. In what is known as the judges' case, judges insisted on the disclosure of the correspondence between the Union Law Minister and the CJI regarding their appointment and transfer on the ground that government was performing a constitutional function and it was a matter of public interest why a particular judge was dropped or allowed to continue. The court again rejected government's claim of privilege on the correspondence: "Where a society has chosen to accept democracy as its creedal faith, it is elementary that the citizens ought to know what their government is doing. It has been truly said that an open government is clean government and a powerful safeguard against political and administrative aberration and inefficiency."

Judges invoked the right to know when they found their own interests in jeopardy. But why should the same right not be invoked when people demand information or accountability from the judiciary? Judges generally take the plea

<sup>56</sup>The message posted by Sri. Vishal Kudcharkar in HumJanenge. Refer [http://timesofindia.indiatimes.com/Editorial/Not\\_above\\_the\\_law/article-show/2395915.cms](http://timesofindia.indiatimes.com/Editorial/Not_above_the_law/article-show/2395915.cms)

that the functioning of the judiciary is transparent, as proceedings take place in the open court and every judgment is a public document which is subject to criticism.

However, after the passage of RTI Act in 2005, decisions of other functionaries too have come under greater scrutiny than before.

Little is known about the administrative actions of the judiciary.

Most High Courts have not even appointed Public Information Officers (PIO) as required under the RTI Act. Those which have appointed PIOs have framed their own rules which clearly prohibit the disclosure of information on administrative matters relating to expenditure on judges and procedures followed in appointments of Class III and IV employees of the High Court.

This amounts to a violation of the Act as exemptions from disclosures are permissible only on certain grounds specified under Section 8 of the Act. High Court rules have arbitrarily enhanced the application fees from the nominal Rs 10 to even Rs 500. Penalty for non-disclosure has been reduced from Rs 25,000 to a meagre Rs 500 which can hardly act as a deterrent. The SC must realise that rights cannot be withdrawn once given. Whether it is the Justice Sabharwal controversy or functioning of the judiciary at large, greater transparency is called for.

### **Judicial bodies may come under RTI<sup>57</sup>**

The CIC'S office is set to come out with a ruling which may define the extent of applicability of the Right to Information over judicial or quasi-judicial bodies.

It pertains to a case relating to the Income Tax Appellate Tribunal (ITAT), Delhi, where some specific information about a case was denied. The ruling is expected in a couple of days or so, country's chief information commissioner Wajahat Habibullah told.

<sup>57</sup>“Judicial bodies may come under RTI “4th Sep 2007, 0233 hrs IST, Shishir Arya, TNN, [http://timesofindia.indiatimes.com/Nagpur/Judicial\\_bodies\\_may\\_come\\_under\\_RTI/articleshow/2335970.cms](http://timesofindia.indiatimes.com/Nagpur/Judicial_bodies_may_come_under_RTI/articleshow/2335970.cms). can contact the writer at shishir.arya@timesgroup.com This message was posted by Sri. Rahul Mangaonkar in HumJanenge

About other plans, he said stress is being laid on holding public hearings through video conferencing. The new system has already picked up doing away with the need of the parties concerned coming all the way to Delhi. Such hearings can be arranged in any city which has a National Informatics Centre (NIC). Lately, hearings through video conferencing have been arranged in 90 cases, he said.

Habibullah added that a Cabinet Committee is reviewing the exemptions from RTI Act allowed to certain government departments for which it is felt that those should not have been exempted. The issue has been pending with the cabinet for the last six months or so, he mentioned.

### **Right to information easy to seek, hard to secure<sup>58</sup>**

Right to Information has been given the status of a constitutional right to free speech and expression, which includes the right to receive and collect information, helping the citizens perform their fundamental duties as set out in Article 51(a) of Constitution of India.

Critical evaluation

The strength of RTI is judged on the basis of five parameters:

#### **1. Application of the Act:**

Under the Act, right to information is given only to a citizen of this country, though no such restriction is made in most countries.

Information can be obtained only from a public authority. The Act specifically excludes information from private authorities. In the era of privatisation, not providing for access to private information is less than desirable.

#### **2. Accessible information:**

In the initial phase, "file noting" was excluded from the purview of the definition of "information and record." Wide criticism on this count, lead the government to make some discounted changes by incorporate certain changes in the rules under the RTI Act.

<sup>58</sup>“Right to information easy to seek, hard to secure”, by Neha Satav: Friday, July 27, 2007, <http://www.dnaindia.com/report.asp?NewsID=1112045>

It was decided that "file noting" relating to identifiable individuals, group of individuals, organisations, appointment matters relating to inquires and departmental proceedings shall not be disclosed.

### 3. Severability:

Section 10 of the RTI Act provided relief to save the requests for information from the rigidity of exemptions mentioned in S.8 and S.9. The provision is excellent and is universally followed. However, two changes are suggested: a) Decision to sever must also be subject to appeal, and b) The document should be made available in its original copy after blacking out the severable portions.

**Suo moto disclosure:** Suo moto disclosure is one of the most important provisions of the RTI Act; public authorities are to give reasons for decisions, publishing and communicating to the persons likely to be affected and the relevant information available before initiating the projects.

The law should establish both a general obligation to publish and key categories of information that must be published.

**Exemptions:** Section 8 and Section 9 of the Act together provide about 11 grounds of exemption, some of them such as threat to security of the state, disclosure expressly forbidden by the court, personal information, information held in fiduciary relationship etc.

However, provisions pertaining to commercial secrets contained in Section 8(d) appear innocuous. Also, there is no need to exempt Cabinet papers from disclosure if they compromise public interest.

**Exempted organisations:** Section 24 gives power to the government to add a list of organisations to which the Act does not apply. The power given under this section is too wide and unnecessary, and may also be said to be devoid of any rationale. Surprisingly, the list also includes the police force.

**Overriding provision:** It is necessary to make an overriding provision that any information, which cannot be denied to the Parliament and State Legislature, will not be denied to any citizen.

The Act contains a similar provision, but it is only as a proviso, thus limiting its application to personal information of public interest. This provision should have an overriding effect on all other exemptions.

### 4. Institutions and adjudicating authorities:

The most outstanding provision of the RTI Act is the appointment of an information commission, dedicated to implementation of the Act. The Act also envisages a chief information commissioner appointed by the Leader of the Opposition in Lok Sabha and Chief Justice of India.

**Public information officer:** Another good feature is that it provides for the executive to enforce the freedom of information. It authorises public authority to appoint public information officers, who shall deal with requests for information.

However, Section 5 does not mention the level in the administrative ladder at which the information officer should be appointed. It is also not clear if the public information officer can decide to give or withhold information unilaterally, or if there will be some internal system.

**Adjudicatory authority:** One of the serious weaknesses of the Act is that there is no provision for an appeal to an independent authority.

Both the appeals are to the government itself. Section 23 of the Act also bars the jurisdiction against the orders passed under this Act. Thus, the only remedy against the orders passed in appeal by the government would be to approach the High court or Supreme Court by means of writ jurisdiction, a remedy that would be impractical for most citizens.

### 5. Penalties:

The Act makes it clear that subject to certain safeguards, there is public interest in allowing access to such information. The Act lays down that the failure to provide information will attract penal liability to the tune of Rs 250 per day.

### Conclusion

With the passage of the Act, an important right has now been recognised by the Parliament. There is, however, a long struggle ahead before this Act becomes an effective instrument for securing the citizens' right to information and bringing about transparency in functioning of the government and its agencies.

The duty to part with information will require a change in the mindset of legislators and bureaucrats for whom secrecy in governance is a prime legacy.

### **Right to Information Act, going rural<sup>59</sup>**

Having woven many a success story in cities, the (RTI), which completes two years of coming in the statute books in October, 2007 is reaching the rural areas too with villages using its provisions to redress their grievances.

Sidhakahna Jot Keshav village in Bahraich district of Uttar Pradesh is one such example. Five inspired residents of the village filed RTI applications and questioned the district administration about the conditions of the village roads and drains. They also raised questions as why there were no allotments under the 'Indira Awaas Yojna'.

The administration immediately acted and the construction of the roads and drains began in the village. Since then, 32 villagers have been allotted the houses under the 'Indira Awaas Yojna' and the administration has displayed a list on the village wall, containing the names of the villagers eligible for the allotments under the scheme.

Right to Information activist and Magsaysay award winner Arvind Kejriwal says that use of Right to Information is the way to empowering villages, "It is like a life line to the rural India. The RTI Act has shown a great potential to transform the life of rural society." He however admits that there are some hurdles, "The true potential of is still to be explored, especially in the rural India where villagers find it very cumbersome to file applications. The procedure should be simplified and made people friendly." Kejriwal cites the example of Bihar, "Bihar has set a great example by creating a dedicated phone line for Right to Information through which Right to Information can be filed through a phone call. Even an illiterate villager can file his application by a call."

The RTI Act is influencing people to come forward and question the progress on various welfare schemes, creating a positive change in the most backward areas like Eastern UP, Bihar, Jharkhand, Madhya Pradesh, Karnataka, Assam and in Maharashtra. According to Chief

Information Commissioner, Wajahat Habibullah, "Though the villages are less aware about the RTI Act than the cities, yet there are villages where Right to Information is being used. In the villages of Uttar Pradesh, Karnataka and Maharashtra awareness about the RTI Act is quite good and they are using the Act. In fact, slum areas of Mumbai have very high level of awareness regarding the RTI Act." Asked whether the government was planning anything special to spread awareness about the Act in the rural sectors, he said, "No, there is no specific programme on it right now but the NREGA (National Rural Employment Guarantee Act) matches the spirit of RTI." He however praised the efforts being done by media and civic agencies in spreading awareness about the Act.

Maharashtra's State Information Commissioner Vijay Kuvalekar says, "Villages have recently started using RTI to seek information related to their problems. The villages are waking up to the power of RTI." He however admits that there is still a lot to be done to create awareness at grassroots level.

Most questions in RTI applications are related to public distribution system, Ration card, BPL card, 'Indira Awaas Yojna', lands, irrigation, corruption in the welfare schemes and day to day working of local village administration says Major Sanjay Yadav, Information Commissioner in UP.

In Ghara Katara village of Shankar Garh block in Allahabad, daily wagers had a tough time arranging a proper meal as they were not receiving rations on their cards. On 19th December 2006 some 21 villagers prepared RTI applications and questioned the administration, the very next day all the ration card holders got their rations. Even the most backward sections of rural societies as dalits, people living below poverty line and women are seeking information related to Prime Minister Employment Scheme, Indira Awaas Yojna, ration card, midday meal, uniform distribution in the schools and the conditions of village roads. RTI Activist in Rajasthan, Nikhil Dey feels that the key of empowering villages is in the proper implementation and promotion of Right to Information Act.

<sup>59</sup> Obtained from antibriberycampaign@yahoo.com. Refer

[http://www.outlookmoney.com/scripts/ptifile.asp?pti\\_news\\_id=1232](http://www.outlookmoney.com/scripts/ptifile.asp?pti_news_id=1232), reported by Press Trust of India, 20th September 2007, New Delhi,

### **RBI takes palette & brush to provide finance tips:**

After comics, short films, CDs and FM radio programmes are on the cards.<sup>60</sup>

Reserve Bank of India, the banking regulator is donning the role of a scriptwriter. Wearing a new hat, the Reserve Bank of India, besides executing its mandatory functions of supervising the banking and financial sector, has taken upon itself the task of educating Indians in the finer points of finance. With paintbrushes and felt-tipped pens in their hands, RBI officials have published two comic books over the past year – one on the basics of banking and the other, on currency notes. Interestingly, material for dissemination to the public has been drafted in-house, reflecting the creative streaks in the RBI officials.

The apex bank's unusual foray into information dissemination started when it decided to set up a steering committee comprising 15 RBI officials a year ago for looking into its add-on function of financial literacy.

It has identified target groups in the urban and rural areas.

Accordingly, the material and mode of education varies. While in urban areas the focus is on written material, audio and visual streams are employed predominantly in the rural areas.

The committee is exploring various options to reach out to a large section of people. It is in talks with the Directorate of Advertising and Visual Publicity (DAVP) and the Directorate of Field Publicity (DFP) for producing short films and displaying them in all districts of the country.

"One important factor which encouraged us further to take this initiative was the Right to Information (RTI) Act, 2005. Under this Act, among the innumerable queries received from the general public, most of them were related to regulations applied to banking. This was an indicator of the fact that a significant percentage of the Indian population is unaware of financial basics," the RBI official explained.

<sup>60</sup> Vidhya Sivaramakrishnan / Chennai August 10, 2007

### **Officers denying information under RTI can be jailed<sup>61</sup>**

The government will come down heavily on officers who do not respond to applications seeking information under the Right to Information (RTI) Act regarding rural development work. 'We will not spare any officer found erring when it comes to giving information under the RTI Act, such officials will go to jail ' said Minister for Rural Development Shri Raghuvansh Prasad. He added that 'Whenever such cases come to our notice, we will take strict action against the officers concerned. We are also launching awareness campaigns in rural areas so that people know their rights.'

The minister's comments came when it was pointed out to him that a politician-bureaucrat-contractor nexus in Assam was harassing people who sought information on rural development work under the RTI Act. He was addressing a press conference on his ministry's ongoing projects in Assam.

To another question on contractors taking up work under the Indira Awaas Yojana (IAY), a government-housing scheme for people below the poverty line, he said, 'There is no provision whatsoever for IAY work to be allocated to contractors. Strict action will be taken against anybody found doing so.' He clarified that, under this scheme, the money goes straight to the beneficiary's bank account and there is no scope for middlemen to swindle money. 'Each family gets Rs.22, 000 under IAY, and in the hill areas, the amount is Rs.27, 000,' he added.

### **Greater Hyderabad Municipal Corporation (GHMC) makes RTI money spinner<sup>62</sup>**

Government bodies are devising ingenious ways to discourage lay people from using the powerful Right to Information Act (RTI). In the latest instance, the Greater Hyderabad Municipal Corporation (GHMC) has asked an applicant to pay a whopping Rs 1.29 lakh for seeking a certified copy.

Though the RTI Act was passed by Parliament in 2005 to provide information to the general public, the government bodies seem to be dissuading people from approaching them for certified copies of official documents.

<sup>61</sup> Wednesday, 08 August 2007 | <http://www.nerve.in/news:25350079468> | channel: India

<sup>62</sup> 26 Dec 2007, 0252 hrs IST, Koride Mahesh, TNN



In the latest case, Dr K Jhansi Rani, a resident of Yellareddyguda, sought a certified copy of the layout of the Jubilee Hills Co- operative House Building Society Ltd. under the RTI Act, but got a shocker from the GHMC in the form of a letter (Lr.No.305/TPS/GHMC/HO/RTI/07/2731 dated December 6/7, 2007) asking her to "remit Rs 1,29,389 in the GHMC treasury so as to take further necessary action in the matter (issuing of certified copy)".

The GHMC's town planning officials scanned old records and worked out a fee structure as the RTI Act allows the information provider to collect 'actual cost' from the applicant.

As Jhansi Rani sought a certified copy of the layout of the 1,173.26 acre Jubilee Hills Co-op Housing Society, the GHMC officials invoked an old rule to collect the fee.

Of 1173.26 acres plan, they charged Rs 550 for the first two acres and the rest (1,171 acres) at Rs 110 per acre which works out to Rs 1,28,839. As per the Right to Information Act 2005, the government departments can charge 'actual cost' for providing information in the form of photostat copies. But the GHMC has been collecting exorbitant charges as per the scheduled rates mentioned in the Hyderabad Municipal Corporation Act, 1955, which were being adopted for RTI-related applications.

Incidentally, this is not the first time that the corporation charged exorbitant rates from the applicants. The town planning wing charged Rs 72,000 to NGO Forum For a Better Hyderabad to provide information on some illegal constructions in the city. The Forum approached the State Information Commission against the charges being collected by the municipal corporation.

State Information Commission sources said that "We have taken up the appeal filed by the Forum for a Better Hyderabad on the issue and even completed hearings of both parties. The matter has been sent for some legal clarification,"

"We have been charging scheduled rates for certified copies as they will be signed by officers concerned and will be treated as duplicate copies. For general information and photostat copies, the corporation is collecting only paper charges," GHMC additional chief city planner K Balakrishna said. Photocopies of documents have no legal value, but certified copies have legal bearing, even one can take legal course based on the information.

## High Court directs production of records under RTI Act in Goa<sup>63</sup>

In what could be termed as a major embarrassment to the government, the High Court has directed the Chief Secretary JP Singh to remain present in the Court and ensure that the Town and Country Planning (TCP) department do not fail to produce the file containing details of a construction project at Bambolim.

The Court has asked TCP department to produce the file containing Town and Country Planning approvals, plans and No Objection certificates in respect of the construction project coming up at the site of Goa Real Estate and Construction Ltd (GRECL, popularly known as Aldeia de Goa) in the Court. Further, the Sarpanch and Secretary of Curca-Bambolim panchayat were asked to remain present in the Court with all necessary documents.

The Division bench of Justice FI Rebello and Justice NA Britto passed this order while hearing an affidavit by Patricia Pinto, General Secretary, People's Movement for Civic Action (PMCA), who is one of the petitioner in a petition against GRECL. The counsel for the petitioner, Norma Alvares, submitted that the Pinto had applied on August 21, 2007 to the Assistant Public Information Officer of the TCP department under the Right to Information Act for inspection of the file containing TCP approvals, plans and No Objection certificates in respect of the construction project coming up at the site in Bambolim, which is the subject matter of a petition filed by PMCA and Goa Foundation against GRECL.

However, Pinto was denied access to the information by a letter dated September 18, 2004, (much after the statutory period under the RTI Act) and was informed that the file could not be traced.

Even the effort to get some crucial documents from the Secretary of village panchayat of Curca/ Bambolim under RTI Act didn't materialize. On October 16, 2007, under RTI the petitioner requested for crucial documents listed at I-v so that the file that was told to be not traceable since it was send to the Block Development Officer's office in 2003, could be traced. However, on November

<sup>63</sup> Received from rti4ngo@yahoogroups.com December 15, 2007 Aldeia de Goa



14, 2007, she received a formal letter from the Panchayat stating that neither the memorandum for the BDO's office nor the Panchayat letter sending the file to the BDO's office can be traced.

Not impressed with these submissions the Court observed that it is not possible for the files pertaining to a particular project to disappear overnight and asked the concerned authorities to produce the files in the court for scrutiny.

### **Biggest deniers of info in Orissa: Depts of Finance, Energy, GA, Forest: Data<sup>64</sup>**

The departments of Finance, Energy, Home, General Administration and Forest and Environment are the biggest denier of information sought under Right to Information (RTI) Act as per the data provided by the Orissa State Information Commission (SIC) till March 31, 2006. The Department of Finance has denied providing information to 15 applicants against 24 sought (62.5 per cent). The Department of Energy has denied access to information in five out of eight cases (62.5 per cent).

Similarly, the Department of Home has told no to 26 applicants out of 65 (40 per cent), GA Department 28 out of 77 (36 per cent), the Department of Forest and Environment 14 out of 50 (28 per cent); the Department of Cooperation there out of 10 (30 per cent) and Information and Public Relations two out of nine (22 per cent).

In the case of the Department of Water Resources 39 RTI applications were filed during this period, but the department has not provided any information as to in how many cases information has denied.

Under Section 25 of the Act, the SIC is mandated to prepare a report at the end of each year on the implementation of the Act by various departments of the concerned State Government.

As on January 4, 2007, as many as 19 departments have complied with the requests of the SIC with respect to the number of RTI applications filed and the number in which information has been denied. The rest of the department are yet to comply with the letter sent by the SIC to the Information and Public Relations Department (the nodal department in this case) in the month of November 2006.

Ironically, the SIC has penalised only two officers till now while disposing off 398 of complaint and second appeal cases.

<sup>64</sup>Biggest deniers of info: Depts of Finance, Energy, GA, Forest : Data, By Pradeep Baisakh | Bhubaneswar, refer

[http://www.dailypioneer.com/indexn12.asp?main\\_variable=BHUBANESWAR&file\\_name=bhub17%2Etxt&counter\\_img=17](http://www.dailypioneer.com/indexn12.asp?main_variable=BHUBANESWAR&file_name=bhub17%2Etxt&counter_img=17)